

EXHIBIT A

VICTOR STANGO on 12/02/2016

1 UNITED STATES DISTRICT COURT

2 FOR THE

3 EASTERN DISTRICT OF VIRGINIA

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5 CAROLYN CLARK, et al.,

6 Plaintiff,

7 vs. No. 3:15-CV-00391-MHL

8 TRANSUNION, LLC,

9 Defendants.

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14 DEPOSITION OF VICTOR STANGO

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18 Taken before NICOLE HATLER

19 CSR No. 13730

20 December 2, 2016

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<p>1</p> <p>2 I N D E X</p> <p>3 PAGE</p> <p>4 EXAMINATION BY MR. BENNETT 6</p> <p>5</p> <p>6</p> <p>7</p> <p>8 (No exhibits were marked.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 For the Defendant:</p> <p>2 STEPHEN J. NEWMAN</p> <p>3 Stroock & Stroock & Lavan LLP</p> <p>4 2029 Century Park E</p> <p>5 Los Angeles, CA 90067-3086</p> <p>6 (310) 556-5800</p> <p>7 SNewman@Stroock.com</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 DEPOSITION OF VICTOR STANGO</p> <p>2</p> <p>3</p> <p>4 BE IT REMEMBERED, that pursuant to Notice, and on</p> <p>5 the 2nd day of December 2016, commencing at the hour of</p> <p>6 10:54 a.m., in the offices of Regus Business Center, 71</p> <p>7 Stevenson Street, Suite 400, San Francisco, California</p> <p>8 94105, before me, NICOLE HATLER, a Certified Shorthand</p> <p>9 Reporter, State of California, personally appeared</p> <p>10 VICTOR STANGO, produced as a witness in said action, and</p> <p>11 being by me first duly sworn, was thereupon examined as</p> <p>12 a witness in said cause.</p> <p>13 ---oOo---</p> <p>14 APPEARANCES</p> <p>15 For the Plaintiffs:</p> <p>16 LEONARD BENNETT, teleconference</p> <p>17 MATTHEW ERAUSQUIN, telephonically</p> <p>18 ELIZABETH HANES, teleconference</p> <p>19 Consumer Litigation Associates, P.C.</p> <p>20 763 J Clyde Morris Boulevard, Suite 1A</p> <p>21 Newport News, VA 23601</p> <p>22 (757) 930-3660</p> <p>23 Leonard@clalegal.com</p> <p>24</p> <p>25 ANDREW J. GUZZO</p> <p>26 Kelly & Crandall, PLC</p> <p>27 4084 University Drive, Suite 202A</p> <p>28 Fairfax, VA 22030</p> <p>29 (703) 424-7572</p> <p>30 Aguzzo@kellyandcrandall.com</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p>	<p>1 THE VIDEOGRAPHER: Good morning, this is the</p> <p>2 beginning of media one in the deposition of Victor</p> <p>3 Stango in the matter of Carolyn Clark versus TransUnion,</p> <p>4 LLC. The cause number is 315-cv-391. Today's date is</p> <p>5 October -- I'm -- is December 2nd, 2016, and the time is</p> <p>6 10:54 a.m.</p> <p>7 My name is Terrell Suszckiewicz, I'm the</p> <p>8 videographer, and the court reporter is Nicole Hatler.</p> <p>9 We're both here representing the Maxene Weinberg Agency.</p> <p>10 Counsel, would you please identify yourself for</p> <p>11 the record and then the court reporter will swear in the</p> <p>12 witness.</p> <p>13 MR. NEWMAN: Steven --</p> <p>14 MR. BENNETT: This is Leonard Bennett. I'm</p> <p>15 appearing by videoconference from Newport News,</p> <p>16 Virginia, on behalf of the plaintiffs and trying to be</p> <p>17 on behalf of the punitive class. We also have appearing</p> <p>18 remotely Elizabeth Haynes and Matt Erasquin, with my</p> <p>19 office; and Andrew Guzzo with Kelly & Crandall, all on</p> <p>20 behalf of the plaintiff.</p> <p>21 MR. NEWMAN: Steven Newman for defendant and the</p> <p>22 witness.</p> <p>23 THE VIDEOGRAPHER: And on the phone.</p> <p>24 MR. BENNETT: I've covered them all.</p> <p>25 THE VIDEOGRAPHER: Okay. Then the court</p>

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<p>1 reporter may swear in the witness.</p> <p>2 VICTOR STANGO</p> <p>3 sworn as a witness</p> <p>4 testified as follows:</p> <p>5 EXAMINATION BY MR. BENNETT:</p> <p>6 Q. Sir, can you please state your full name for the</p> <p>7 record?</p> <p>8 A. Victor Ereeste Stango III.</p> <p>9 Q. And how much are you getting paid to appear here</p> <p>10 today?</p> <p>11 A. My compensation has two components, one is an</p> <p>12 hourly rate of 950, which I bill as my standard rate. I</p> <p>13 also receive a certain percentage of billings that</p> <p>14 Cornerstone Research incurs as part of their assistance</p> <p>15 to me in cases like this.</p> <p>16 Q. And how much money have you made because of the</p> <p>17 work that you've done for and with Steven Newman,</p> <p>18 TransUnion's lawyer here today all total? Not just this</p> <p>19 case, but all total.</p> <p>20 A. I'm not quite sure of the exact number because</p> <p>21 this is not the only case on which I've worked.</p> <p>22 Q. Really? How many cases has Mr. Newman paid you</p> <p>23 for your opinion?</p> <p>24 A. I would --</p> <p>25 MR. NEWMAN: Objection; argumentative.</p>	<p>1 A. No.</p> <p>2 Q. No? How many cases have you been paid -- how</p> <p>3 many court cases in -- how many court cases have you</p> <p>4 been paid \$950 an hour or more to serve as an expert</p> <p>5 witness?</p> <p>6 A. I can't recall the exact number. I -- to the</p> <p>7 best of my recollection, I have worked on perhaps ten</p> <p>8 cases, but I can't be positive of that number, as I sit</p> <p>9 here right now.</p> <p>10 Q. And did you -- were you able to bill your paying</p> <p>11 client \$950 an hour for the work in all ten of those</p> <p>12 cases?</p> <p>13 A. To the best of my recollection, yes. That is my</p> <p>14 standard rate.</p> <p>15 Q. Okay. How did you determine your standard rate?</p> <p>16 A. A number of factors went into it, including how</p> <p>17 I value my own time.</p> <p>18 Q. What other factors besides how you value your</p> <p>19 own time went into setting your \$950 an hour rate for</p> <p>20 testimony on behalf of TransUnion and other customers?</p> <p>21 A. I think the best way to put it would be that, I</p> <p>22 sent my hourly rate based on my assessment of the effort</p> <p>23 that I will incur and how I value it.</p> <p>24 Q. When was the first -- in what year was the first</p> <p>25 case that you ever got paid as an expert witness?</p>
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<p>1 You can answer.</p> <p>2 THE WITNESS: I would take issue with a premise</p> <p>3 of your question, which is that I've been paid for my</p> <p>4 opinion. My opinions are my own in this case and every</p> <p>5 other case in which I've testified. That said, I</p> <p>6 believe that this is the fourth case with which I've</p> <p>7 worked with Steve Newman.</p> <p>8 BY MR. BENNETT:</p> <p>9 Q. I'm sorry. How much?</p> <p>10 MR. NEWMAN: The question is, can -- the</p> <p>11 question is: Can you estimate what your fees have been</p> <p>12 in matters where you've worked with me?</p> <p>13 THE WITNESS: I'm sorry. I thought you asked me</p> <p>14 how many cases I've worked on. As to the total billings</p> <p>15 I've submitted, I can't recall exactly.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. I'm sorry. And how many cases have you been</p> <p>18 paid by Mr. Newman or his client for Mr. Newman's case?</p> <p>19 A. This is the fourth.</p> <p>20 Q. The fourth. And those were all in causes of</p> <p>21 action in which you sent your bill to TransUnion, the</p> <p>22 defendant in this case?</p> <p>23 A. Yes, as I recall.</p> <p>24 Q. Do you get paid nine -- \$950 for every hour you</p> <p>25 work with the University of California?</p>	<p>1 A. I can't recall.</p> <p>2 Q. Do you know if it was before 2014?</p> <p>3 A. Yes. It was before 2014.</p> <p>4 Q. Do you know if it was before 2013?</p> <p>5 A. Yes. I believe so.</p> <p>6 Q. Do you know if it was before 2012?</p> <p>7 A. Yes. Although, as we go further back, my memory</p> <p>8 is getting fuzzier on exact dates.</p> <p>9 Q. Do you know if it was before 2011?</p> <p>10 A. I believe so.</p> <p>11 Q. Do you know if it was before 2010?</p> <p>12 A. I can't be sure.</p> <p>13 Q. So you would think it's probably some time</p> <p>14 around 2009, 2010, 2011 that you first were hired to</p> <p>15 provide expert opinions or testimony in court cases,</p> <p>16 right?</p> <p>17 A. That seems about right, given my memory, as I</p> <p>18 sit here today. Yes.</p> <p>19 Q. Well, you know, I -- of course, you have</p> <p>20 rendered an opinion that relies on research that goes --</p> <p>21 your research, I gather, that goes back well before</p> <p>22 2009, right?</p> <p>23 MR. NEWMAN: Objection; vague and ambiguous.</p> <p>24 You can answer.</p> <p>25 //</p>

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<p>1 BY MR. BENNETT:</p> <p>2 Q. I'm just trying to figure out is -- is it too</p> <p>3 generally that you can't remember things more than six</p> <p>4 years old or is it that you just can't remember when you</p> <p>5 first testified?</p> <p>6 MR. NEWMAN: Objection.</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. Is that a unique memory problem?</p> <p>9 MR. NEWMAN: Objection; argumentative.</p> <p>10 Go ahead.</p> <p>11 THE WITNESS: I'm telling you what I can</p> <p>12 remember to the best of my abilities. I wouldn't make a</p> <p>13 general statement --</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. Okay.</p> <p>16 A. -- about my memory.</p> <p>17 Q. So you have, roughly -- you've testified,</p> <p>18 roughly, ten cases, four of which were TransUnion --</p> <p>19 MR. NEWMAN: Objection; misstates testimony.</p> <p>20 MR. BENNETT: I'm sorry. What was misstated,</p> <p>21 Mr. Newman?</p> <p>22 MR. NEWMAN: He didn't testify in all those</p> <p>23 cases.</p> <p>24 BY MR. BENNETT:</p> <p>25 Q. Okay. You've been paid by someone in ten cases.</p>	<p>1 who's not your client.</p> <p>2 BY MR. BENNETT:</p> <p>3 Q. Now, Mr. Stango, can you tell me the names of</p> <p>4 any other companies or parties on whose behalf you have</p> <p>5 given any expert opinion or testimony other than</p> <p>6 TransUnion?</p> <p>7 A. Restricting my answer to the set of firms for</p> <p>8 which I provided an expert report, I believe that the</p> <p>9 answer is yes.</p> <p>10 Q. I'm sorry. Is what?</p> <p>11 A. Yes. I can tell you.</p> <p>12 Q. Okay. Then, all right. Who are those other</p> <p>13 firms to whom you provided or on whose behalf you</p> <p>14 provided an expert report?</p> <p>15 A. The names I can recall, sitting here today, are</p> <p>16 TransUnion, the Dun & Bradstreet Corporation,</p> <p>17 CitiMortgage, and Chase Bank.</p> <p>18 Q. And that's four. Do you know how many times you</p> <p>19 were paid and gave an expert witness report on behalf of</p> <p>20 Dun & Bradstreet?</p> <p>21 A. As I recall, I was retained and submitted a</p> <p>22 report in one case for Dun & Bradstreet.</p> <p>23 Q. And how many cases for CitiMortgage?</p> <p>24 A. As I recall, I submitted an expert report in one</p> <p>25 case for CitiMortgage.</p>
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<p>1 You've been paid -- in four of those ten cases you were</p> <p>2 paid by TransUnion. That would leave six cases, right?</p> <p>3 A. Roughly speaking, yes.</p> <p>4 Q. Roughly speaking.</p> <p>5 So can you tell me the names of the party on</p> <p>6 whose behalf you issued an expert opinion or provided</p> <p>7 testimony for those other six?</p> <p>8 MR. NEWMAN: And -- and I would caution the</p> <p>9 witness that to the extent were you engaged solely as a</p> <p>10 consulting expert and did not testify or provide a</p> <p>11 report, that I would expect those clients should not be</p> <p>12 disclosed, but go ahead with the question as best you</p> <p>13 can.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. And let me start there. Let me stop real quick,</p> <p>16 because I want to make sure that we're all clear on</p> <p>17 this. Do you have a lawyer who represents you, who's</p> <p>18 your lawyer, in that room with you today?</p> <p>19 A. Not --</p> <p>20 MR. NEWMAN: I --</p> <p>21 THE WITNESS: -- as I understand thing. No.</p> <p>22 BY MR. BENNETT:</p> <p>23 Q. Okay.</p> <p>24 MR. BENNETT: Okay. So Mr. Newman, please don't</p> <p>25 caution and give unsolicited legal advice to somebody</p>	<p>1 Q. And how many for Chase?</p> <p>2 A. The number of reports I've submitted for Chase</p> <p>3 is at least two, that I can recall. There may be</p> <p>4 another one that's slipping my mind right now, but I'm</p> <p>5 not sure.</p> <p>6 Q. Okay. Now, you -- you can agree with me that</p> <p>7 all four of the expert opinions or reports that you gave</p> <p>8 regarding TransUnion were about credit reporting and</p> <p>9 involved credit reporting, correct?</p> <p>10 MR. NEWMAN: And -- and objection as to the</p> <p>11 statement, your number of reports. In one of the</p> <p>12 matters he was a consulting expert and the matter has</p> <p>13 since resolved and no report was delivered.</p> <p>14 MR. BENNETT: Thank you.</p> <p>15 BY MR. BENNETT:</p> <p>16 Q. So of the three TransUnion reports where you</p> <p>17 gave you an ex -- you gave an expert witness report,</p> <p>18 they all regarded credit reporting, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. How many or how many of the Chase reports</p> <p>21 that you drafted regarded Chase -- or regarded credit</p> <p>22 reporting?</p> <p>23 A. I'm thinking about my answer because those cases</p> <p>24 involved the terms of consumer credit products which, of</p> <p>25 course, can be influenced by information in credit</p>

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<p style="text-align: right;">Page 14</p> <p>1 files, but I would not characterize those cases as being</p> <p>2 about credit reporting, per se.</p> <p>3 Q. What about CitiMortgage?</p> <p>4 A. I would not characterize that case as being</p> <p>5 about credit reporting.</p> <p>6 Q. And what about Dun & Bradstreet?</p> <p>7 A. That case involved credit reporting in a small</p> <p>8 business context.</p> <p>9 Q. When did you first meet Steve Newman?</p> <p>10 A. Yesterday.</p> <p>11 Q. When did you first talk to Steve Newman?</p> <p>12 A. I can't recall exactly. A few years ago.</p> <p>13 Q. And how did you -- how were you -- how did you</p> <p>14 become acquainted with Mr. Newman? In what context?</p> <p>15 For example, at a conference, or a social, or a hire an</p> <p>16 expert company, like Cornerstone?</p> <p>17 MR. NEWMAN: Objection; argumentative.</p> <p>18 Go ahead.</p> <p>19 THE WITNESS: The first time I spoke to Steve</p> <p>20 Newman was in connection, as I recall, with a possible</p> <p>21 expert engagement.</p> <p>22 BY MR. BENNETT:</p> <p>23 Q. And did it come through your agent through</p> <p>24 Cornerstone?</p> <p>25 MR. NEWMAN: Objection; mischaracterizes</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. BENNETT: And at that point, you had not</p> <p>2 retained him for consulting advice and you had not</p> <p>3 retained him to provide a 26(a)(2) report or anything</p> <p>4 comparable.</p> <p>5 MR. NEWMAN: But it still -- you know, even</p> <p>6 then, if I speak to a witness for the purpose of</p> <p>7 engaging him as an expert or for the purpose of using</p> <p>8 him as a consulting expert, that communication is -- is</p> <p>9 privileged. It's --</p> <p>10 MR. BENNETT: But why --</p> <p>11 MR. NEWMAN: And my -- and my former client, who</p> <p>12 is not a party here, who hasn't been given notice to</p> <p>13 this proceeding holds the privilege. So he can't tell</p> <p>14 you who it was. I represent to you that it was not</p> <p>15 TransUnion, and it was not related to a Transunion</p> <p>16 matter. And you can ask -- and I don't have a problem</p> <p>17 with him describing the matter in general terms to let</p> <p>18 you know what it was about, but I -- I -- I object to</p> <p>19 his revealing who the client was. The matter has been</p> <p>20 resolved. He didn't testify in the matter, and you</p> <p>21 know, it's privileged.</p> <p>22 MR. BENNETT: All right. Let's start with that</p> <p>23 offer of compromise here.</p> <p>24 BY MR. BENNETT:</p> <p>25 Q. What was the nature of the matter in which</p>
<p style="text-align: right;">Page 15</p> <p>1 testimony; argumentative.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: I wouldn't call Cornerstone my</p> <p>4 agent. Cornerstone Research is a consulting firm with</p> <p>5 which I have an affiliation. But, yes. As I recall,</p> <p>6 Cornerstone Research was involved in bringing us</p> <p>7 together, but I can't remember the details.</p> <p>8 BY MR. BENNETT:</p> <p>9 Q. And do you know the name of the case that -- in</p> <p>10 which you were first contacted by Mr. Newman?</p> <p>11 MR. NEWMAN: It was -- this is not a TransUnion</p> <p>12 case, and I would object that that calls for</p> <p>13 confidential information.</p> <p>14 MR. BENNETT: Well, we --</p> <p>15 MR. NEWMAN: You can describe the nature of the</p> <p>16 matter generally without indicating the client.</p> <p>17 MR. BENNETT: Well, I -- I disagree, because at</p> <p>18 that point, you had not retained him when you first</p> <p>19 inquired, so I'm entitled to know that particularly as</p> <p>20 it's obvious from this line of questioning, in our view,</p> <p>21 that this witness would say and do about anything that</p> <p>22 you paid him to say. So, I'm entitled to learn how you</p> <p>23 developed that relationship -- that business</p> <p>24 relationship with your witness.</p> <p>25 MR. NEWMAN: Well, I'm --</p>	<p style="text-align: right;">Page 17</p> <p>1 Mr. Newman first contacted you for one of his clients?</p> <p>2 A. As I recall, that matter involved a credit card</p> <p>3 issuer.</p> <p>4 Q. Okay. And what was the nature of the problem</p> <p>5 that was considered in that litigation?</p> <p>6 MR. NEWMAN: You can answer that question.</p> <p>7 THE WITNESS: I'm not sure what was important in</p> <p>8 the litigation, but as I recall, the subject of my</p> <p>9 possible involvement in the case involved changes in the</p> <p>10 terms of credit card accounts by this issuer and</p> <p>11 possible impacts on consumers, but I can't remember much</p> <p>12 less than that.</p> <p>13 BY MR. BENNETT:</p> <p>14 Q. Do you recall what year that was?</p> <p>15 A. No.</p> <p>16 Q. When was the first time that Mr. Newman</p> <p>17 contacted you about a TransUnion case for which you were</p> <p>18 then later retained?</p> <p>19 A. It was a few years ago. I think in 2012 or '13.</p> <p>20 Q. Without revealing the identity of the</p> <p>21 non-TransUnion clients in which Mr. Newman contacted</p> <p>22 you, what is your best estimate of the number of</p> <p>23 different discrete cases in which Mr. Newman has</p> <p>24 contacted you as an expert?</p> <p>25 A. I think I've now told you about them all. The</p>

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<p>1 first one --</p> <p>2 Q. I'm sorry?</p> <p>3 A. I think I've now told you about all of them.</p> <p>4 The first one, in which I was not retained, and the</p> <p>5 subsequent ones involving TransUnion.</p> <p>6 Q. So that would be -- well, let -- let me try it</p> <p>7 this way: How many -- how many TransUnion cases -- in</p> <p>8 how many TransUnion cases have you been retained?</p> <p>9 MR. NEWMAN: Asked and answered.</p> <p>10 Go ahead.</p> <p>11 THE WITNESS: This is the fourth.</p> <p>12 BY MR. BENNETT:</p> <p>13 Q. Okay. So you have been contacted and</p> <p>14 communicated with Mr. Newman in a role as an expert or</p> <p>15 potential expert in a total of five cases, correct?</p> <p>16 A. I believe that's right. We had a brief</p> <p>17 discussion, now that I'm thinking of it, involving one</p> <p>18 other matter, again, in which I was not retained.</p> <p>19 Q. Let me change this -- the -- the topic here a</p> <p>20 little bit. I have had an opportunity to read a lot,</p> <p>21 but not all of your publications, your articles, and</p> <p>22 your news comments a lot. You write a lot. I mean, you</p> <p>23 write a pretty decent amount, you believe, right?</p> <p>24 A. I don't know what you mean by, "decent amount,"</p> <p>25 but my publications are listed on my curriculum vitae.</p>	<p>1 A. I can't recall every word of my publications, so</p> <p>2 I'm unable to answer that question.</p> <p>3 Q. Well, how about -- how about in the title to any</p> <p>4 of your publications, and I mean, even articles, even</p> <p>5 your -- your newspaper duet criticizing CFPB, Truth in</p> <p>6 Lending Act disclosures. I mean everything that you've</p> <p>7 published.</p> <p>8 MR. NEWMAN: Objection.</p> <p>9 BY MR. BENNETT:</p> <p>10 Q. Do you have any publication that even has the</p> <p>11 word, "credit report," or, "credit reporting," in its</p> <p>12 title?</p> <p>13 MR. NEWMAN: Objection.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: Not that I recall. No.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. And in fact, it is true that you have never</p> <p>18 published not one publication besides an expert witness</p> <p>19 report that considered, evaluated, or advanced the</p> <p>20 research regarding credit reporting accuracy, right?</p> <p>21 MR. NEWMAN: Objection.</p> <p>22 Go ahead.</p> <p>23 THE WITNESS: Again, I can't be 100 percent sure</p> <p>24 whether none of my publications or some of them contain</p> <p>25 references to credit reporting accuracy, as I sit here</p>
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<p>1 Q. And if I were to have a Word searchable copy of</p> <p>2 all of your publications listed on your CV and I were to</p> <p>3 search for the term, "credit report," in what</p> <p>4 publications do you recall where I might find that term</p> <p>5 "used"?</p> <p>6 MR. NEWMAN: Objection; argumentative.</p> <p>7 You can answer.</p> <p>8 MR. BENNETT: I'll make it broader.</p> <p>9 BY MR. BENNETT:</p> <p>10 Q. I'll make it broader. I'll make it: Credit</p> <p>11 report, credit reporting, credit reporting agency, Fair</p> <p>12 Credit Reporting Act. How about that?</p> <p>13 MR. NEWMAN: Object to the form of the question.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. In which publications would I find any of those</p> <p>16 terms, in any combination?</p> <p>17 MR. NEWMAN: Objection.</p> <p>18 You can answer if you're able.</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. Because I haven't found it yet. So I'm still</p> <p>21 hoping I have not read all of them.</p> <p>22 MR. NEWMAN: Objection.</p> <p>23 Go ahead.</p> <p>24 BY MR. BENNETT:</p> <p>25 Q. You tell me which publications.</p>	<p>1 today. My curriculum vitae details my qualifications,</p> <p>2 as does my report; and they include studies of consumer</p> <p>3 behavior in a variety of banking markets, studies of</p> <p>4 consumer behavior in credit markets, the relationship</p> <p>5 between credit scores and the terms of credit offered to</p> <p>6 consumers and --</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. Okay.</p> <p>9 A. -- interpretations of consumer disclosures.</p> <p>10 Q. Do you have your --</p> <p>11 MR. NEWMAN: Let him -- let him finish his</p> <p>12 answers.</p> <p>13 MR. BENNETT: Okay.</p> <p>14 THE WITNESS: -- and interpretation of</p> <p>15 disclosures by consumers.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. Okay. Do you have your expert witness report in</p> <p>18 front of you?</p> <p>19 MR. NEWMAN: He does.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. BENNETT:</p> <p>22 Q. And do you have appendix A to that, which is</p> <p>23 your -- your CV?</p> <p>24 MR. NEWMAN: Should we mark this as an exhibit</p> <p>25 to the deposition? Let's just --</p>

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<p style="text-align: right;">Page 22</p> <p>1 MR. BENNETT: I'm sorry?</p> <p>2 MR. NEWMAN: Let's just mark the report as an</p> <p>3 exhibit to the deposition before you start asking</p> <p>4 questions about it.</p> <p>5 MR. BENNETT: No. We don't need to. No. I</p> <p>6 trust that this is his report. I don't intend to put</p> <p>7 any exhibits before the court reporter.</p> <p>8 BY MR. BENNETT:</p> <p>9 Q. But if you could take a look at appendix A to</p> <p>10 your report.</p> <p>11 A. I have it in front of me.</p> <p>12 Q. So let's -- you see the list of publications, 20</p> <p>13 journal publications and eight additional publications.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. So let's -- I'm going to -- I want to be able to</p> <p>17 cross out any that don't have anything to do with this</p> <p>18 case.</p> <p>19 MR. NEWMAN: Objection.</p> <p>20 BY MR. BENNETT:</p> <p>21 Q. So let's go through those. And if you think it</p> <p>22 has something to do with the case, then --</p> <p>23 MR. NEWMAN: Len, that's not a proper question.</p> <p>24 Why don't you just -- why don't you just ask some</p> <p>25 questions --</p>	<p style="text-align: right;">Page 24</p> <p>1 form of a question to which the witness can give an</p> <p>2 answer, and I ask that you do that.</p> <p>3 MR. BENNETT: Steve, I'm not as good at this as</p> <p>4 you are, so I'm doing my best to frame my questions. If</p> <p>5 you would do it differently, then you can take it up</p> <p>6 when you're the plaintiff's side lawyer.</p> <p>7 MR. NEWMAN: Do you have a question for the</p> <p>8 witness on publication No. 5?</p> <p>9 MR. BENNETT: Yes.</p> <p>10 MR. NEWMAN: What's your question on publication</p> <p>11 No. 5?</p> <p>12 BY MR. BENNETT:</p> <p>13 Q. Mr. Stango -- Mr. Stango, which of these first</p> <p>14 20 publications have something material to do with the</p> <p>15 issues in this case?</p> <p>16 MR. NEWMAN: Objection; argumentative.</p> <p>17 Are you able to answer the question?</p> <p>18 THE WITNESS: I can try.</p> <p>19 I'm not sure what you mean by, "material to the</p> <p>20 issues." This list of papers describes my peer-reviewed</p> <p>21 academic publications, which as I said before, pertain</p> <p>22 to issues involving consumer behavior in banking,</p> <p>23 involving consumer interpretation of disclosures in</p> <p>24 banking markets, and which involve relationships between</p> <p>25 credit scores as reported by consumer reporting</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. BENNETT: No. It doesn't have -- Steve, it</p> <p>2 does not, and that's nothing pejorative. It has nothing</p> <p>3 to do with the case. The Strategic Incompatibility in</p> <p>4 ATM Markets has nothing to do with Congress' mandate</p> <p>5 that TransUnion disclose the source of its public</p> <p>6 records data.</p> <p>7 MR. NEWMAN: It has --</p> <p>8 MR. BENNETT: If the witness disagrees, then the</p> <p>9 witness can explain this, but on the report, Steve --</p> <p>10 MR. NEWMAN: There was a question --</p> <p>11 MR. BENNETT: -- there's a lot of those --</p> <p>12 THE REPORTER: Hold on. One at a time, please.</p> <p>13 MR. BENNETT: I was done. We can start.</p> <p>14 MR. NEWMAN: I -- I --</p> <p>15 MR. BENNETT: I'm sorry.</p> <p>16 MR. NEWMAN: -- you know.</p> <p>17 MR. BENNETT: Say what you want. Talk all you</p> <p>18 want.</p> <p>19 MR. NEWMAN: There's --</p> <p>20 MR. BENNETT: Talk all you want and tell me when</p> <p>21 you're done.</p> <p>22 MR. NEWMAN: There's a time and a place for</p> <p>23 arguments, Mr. Bennett, and I think you should confine</p> <p>24 yourself to specific questions to the witness. You --</p> <p>25 it's very simple for you to frame your comments in the</p>	<p style="text-align: right;">Page 25</p> <p>1 agencies --</p> <p>2 BY MR. BENNETT:</p> <p>3 Q. Okay.</p> <p>4 A. -- and the terms of credit.</p> <p>5 MR. NEWMAN: Let him finish.</p> <p>6 THE WITNESS: But I don't know what you mean by,</p> <p>7 "material to the issues."</p> <p>8 BY MR. BENNETT:</p> <p>9 Q. Okay. So let's start with No. 1. Quote,</p> <p>10 "Borrowing high versus borrowing higher: Sources and</p> <p>11 consequences of dispersion in individual borrowing</p> <p>12 costs," close quote. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. So what was that about?</p> <p>15 A. That study uses a large administrative data set</p> <p>16 including transaction by transaction credit card account</p> <p>17 data for a set of consumers numbering, as best I can</p> <p>18 recall, over a thousand; and the data that we employ in</p> <p>19 that study also includes credit bureau data from one of</p> <p>20 the major consumer reporting agencies.</p> <p>21 What we do in the paper is document dispersion,</p> <p>22 meaning diversity across consumers, in borrowing costs</p> <p>23 paid on credit card debt and we explore possible reasons</p> <p>24 for that dispersion. I can continue, if you'd like.</p> <p>25 Q. Yeah. Just what does it have to do with the way</p>

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<p style="text-align: right;">Page 26</p> <p>1 consumers make credit reporting disputes to TransUnion 2 or how they remove or learn about public records in 3 their credit files? 4 A. I've described what the paper is about, and it 5 does not directly address those particular details that 6 you mentioned. But as I said, it is part of my 7 curriculum vitae that I have submitted as part of my 8 qualifications in this case. It addressed issues 9 involving consumer behavior, and it addresses issues 10 involving credit scores as reported by credit bureaus. 11 It addresses a number of different issues. That's the 12 best answer I can give you. 13 Q. Okay. Mr. Stango, where were you born? 14 A. I was born in Philadelphia, Pennsylvania. 15 Q. And where were you raised as -- up until the 16 point when you went to college? 17 A. I spent most of my childhood and youth in 18 Boston. 19 Q. Your second publication is, quote, "Limited and 20 Varying Consumer Attention: Evidence From Shocks to the 21 Salience of Overdraft Fees." Do you recall that 22 publication with Mr. Zinman, Z-I-N-M-A-N? 23 A. Yes. 24 Q. And what does that have to do with the subject 25 matter of this lawsuit?</p>	<p style="text-align: right;">Page 28</p> <p>1 also communicated in person and via e-mail. 2 Q. And you retained your e-mail, correct? 3 A. I wouldn't offer a general characterization of 4 what I do with my e-mail. 5 Q. You -- 6 A. I have -- 7 Q. You have not deleted your e-mails with 8 Mr. Newman, have you? 9 A. I don't know which e-mails this would refer to, 10 but in general, I do have a standard practice of 11 disposing of e-mail once it becomes unnecessary to keep 12 it. This is a personal practice as well as a 13 professional one. 14 Q. Have you deleted any e-mails received from or 15 sent to anyone in this case? 16 A. I think that the answer is, almost certainly, 17 yes. 18 Q. And why are you certain that you would have 19 deleted e-mails in this case? 20 A. As I said, as part of my standard practice, once 21 e-mails are no longer necessary for the continuation of 22 whatever business I'm involved in, I will often delete 23 them. An example would be something like an e-mail 24 arranging a time for a phone call. 25 Q. What about an e-mail that provided a summary of</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. NEWMAN: Objection. 2 Go ahead. 3 THE WITNESS: As I said, to the extent that my 4 assignment in this case involved issues of consumer 5 behavior and issues of consumer interpretation of 6 information presented to them in the context of their 7 household financial behavior. It is, as with the rest 8 of my curriculum vitae, something that I've submitted as 9 part of my qualifications to undertake the assignment in 10 this case. 11 BY MR. BENNETT: 12 Q. Okay. What is the primary way in which you 13 communicated with Mr. Newman about this -- the -- the -- 14 about this case or in this case? 15 MR. NEWMAN: The question is how have we 16 communicated. The question is not about the substance 17 of the communication. You can answer the question. 18 THE WITNESS: I would say that -- 19 BY MR. BENNETT: 20 Q. I'm sorry. Let me -- let me repeat. What is 21 the manner in which you have communicated or what are 22 the manners in which you have communicated with 23 Mr. Newman in this case? 24 A. The primary manner in which we have 25 communicated, I would say, is over the phone. We have</p>	<p style="text-align: right;">Page 29</p> <p>1 facts regarding this case, would you have deleted that? 2 MR. NEWMAN: Objection; foundation. 3 You can answer. 4 THE WITNESS: I don't have a general practice 5 regarding such e-mails, and to the best of my 6 recollection, sent no such e-mails in connection with 7 this case. 8 BY MR. BENNETT: 9 Q. Well, what's your best guesstimate of how many 10 e-mails Mr. Newman has sent you in this case? 11 A. I can't recall exactly. Most of them were 12 associated with arranging times for telephone calls, if 13 I received them from Mr. Newman, rather than from 14 someone else, but I would characterize the number of 15 overall e-mails as not very large. 16 Q. So who else representing TransUnion, either 17 inside that company or in an outside law firm, has 18 communicated with you regarding this case? 19 A. I'm not sure whether you mean communicated via 20 e-mail or otherwise. 21 Q. Right now, any regard, and then I'll focus on 22 e-mail. 23 A. I've spoken with at least one attorney for 24 TransUnion, and this is also the attorney to whom I 25 e-mail my invoices.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q. And that's Dan, the in-house lawyer, right?</p> <p>2 A. His name is Dan Halvorsen. Yes.</p> <p>3 Q. And now you have to spell it for Nicole. That's</p> <p>4 why I just used Dan, but that's okay. Can you spell it?</p> <p>5 A. I'll try. H-A-L-V-O-R-S-E-N, Halvorsen.</p> <p>6 Q. Correct.</p> <p>7 And what have you spoken to Dan about, the</p> <p>8 general subject?</p> <p>9 MR. NEWMAN: Again, you can't describe the</p> <p>10 substance of that communication about the case. But if</p> <p>11 you can describe the nature of the conversation, you</p> <p>12 know, generally, such as you did it relating to</p> <p>13 invoicing -- did it relate -- if you can do that without</p> <p>14 revealing the substance, because the substance itself is</p> <p>15 privileged. Can you answer the question?</p> <p>16 THE WITNESS: I think the best answer that I can</p> <p>17 give is that the subject matter of those phone calls</p> <p>18 related to the development of the work that I did in the</p> <p>19 case. And beyond that, I don't believe I can give you</p> <p>20 any specifics.</p> <p>21 BY MR. BENNETT:</p> <p>22 Q. And when you mean by, related to the work you</p> <p>23 did in the case, did any parts of your conversations or</p> <p>24 communications with Dan enlighten you as to any facts</p> <p>25 that you considered in coming up with your opinion?</p>	<p style="text-align: right;">Page 32</p> <p>1 to focus now on Dan's conversations with you. Did</p> <p>2 you -- did you exchange e-mails with Dan?</p> <p>3 A. As I recall, my e-mail correspondence with him</p> <p>4 is confined to matters involving invoices, and perhaps,</p> <p>5 arranging a time for a phone call.</p> <p>6 Q. Do you have a contract with TransUnion?</p> <p>7 A. I have an engagement letter. Yes.</p> <p>8 Q. Okay.</p> <p>9 A. I don't --</p> <p>10 Q. Did you receive the subpoena that we served in</p> <p>11 this case to you?</p> <p>12 A. Yes. I've seen it.</p> <p>13 Q. When's the first time you saw it?</p> <p>14 A. I think the first time I saw it was earlier this</p> <p>15 week.</p> <p>16 Q. And you received it from Mr. Newman or from his</p> <p>17 firm?</p> <p>18 A. No. I received it from someone at Cornerstone</p> <p>19 Research.</p> <p>20 Q. And did you produce or provide any documents in</p> <p>21 response to that subpoena?</p> <p>22 A. Yes.</p> <p>23 Q. To whom did you provide those documents?</p> <p>24 A. As I recall, I sent a file containing some of my</p> <p>25 publications to someone at Cornerstone Research.</p>
<p style="text-align: right;">Page 31</p> <p>1 MR. NEWMAN: That -- that question, as framed,</p> <p>2 calls for a privilege.</p> <p>3 To the extent you received information that you</p> <p>4 relied upon in formulating your opinion, you must</p> <p>5 disclose those facts, but otherwise, you can't answer</p> <p>6 the question.</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. Unless it's in writing, in which case privilege</p> <p>9 has been waived. So you can ask -- answer it in any</p> <p>10 documented communications with TransUnion, but yeah,</p> <p>11 counsel is right that pure nonfact-based communications</p> <p>12 are under very narrow circumstances privileged.</p> <p>13 So let's start with, did you have any</p> <p>14 conversations with Dan that provided you any factual</p> <p>15 information that you considered in coming up with your</p> <p>16 opinions in this case?</p> <p>17 MR. NEWMAN: Go ahead.</p> <p>18 THE WITNESS: I can't recall specifics, but yes,</p> <p>19 I believe so. More generally, the information I relied</p> <p>20 upon in forming my opinion and the facts that I relied</p> <p>21 upon in forming my opinions are detailed in my report.</p> <p>22 BY MR. BENNETT:</p> <p>23 Q. Well, I understand that you've read other</p> <p>24 people's research, and that's formed your opinion.</p> <p>25 That's -- I can see in your BB report. But I'm trying</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Who is that person?</p> <p>2 A. His name is Dan Schmierer.</p> <p>3 Q. Can you spell it?</p> <p>4 A. S-C-H-M-I-E-R-E-R.</p> <p>5 Q. And what is his job at Cornerstone?</p> <p>6 A. Dan's an economist.</p> <p>7 Q. So why would you send your publications to Dan,</p> <p>8 an economist, as opposed to an administrative employee?</p> <p>9 A. The question never occurred to me. Dan is my</p> <p>10 primary point of contact in this case, so I sent it to</p> <p>11 him.</p> <p>12 Q. Did anyone at Cornerstone -- and I don't mean</p> <p>13 typing and I don't mean checking for typographic or</p> <p>14 grammar errors. I mean, substantively the actual text.</p> <p>15 Did anyone at Cornerstone, besides yourself, participate</p> <p>16 in the drafting of your expert witness report in this</p> <p>17 case?</p> <p>18 MR. NEWMAN: Objection; vague and ambiguous.</p> <p>19 You can answer.</p> <p>20 THE WITNESS: Every word in the report is mine.</p> <p>21 The opinions that I express in the report are mine and</p> <p>22 mine alone.</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. So I gather then the answer to my question is,</p> <p>25 yes, other people at Cornerstone, besides yourself,</p>

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<p style="text-align: right;">Page 34</p> <p>1 participated in writing some of the text in your 2 report -- 3 MR. NEWMAN: Objection -- 4 BY MR. BENNETT: 5 Q. -- right? 6 MR. NEWMAN: Objection; misstates testimony. 7 You can answer. 8 BY MR. BENNETT: 9 Q. Do you know Mr. Keeley? Mr. Keeley, 10 K-E-E-L-E-Y, I think his name is? 11 A. I'm not sure which question I'm supposed to 12 answer. 13 MR. NEWMAN: The question is: Do you know 14 Mr. Keeley? 15 BY MR. BENNETT: 16 Q. Let me ask you this -- yeah. 17 A. I -- I can't recall the name. No. 18 Q. Okay. Because -- because he works for 19 Cornerstone, too, and he charged Core Logic, roughly, 20 little less than half a million dollars before his 21 report was excluded. And Mr. Keeley, who I also think 22 is a Ph.D. -- Mr. Keeley uses a couple economists at 23 Cornerstone to help him write his reports. So I'm 24 trying to understand if that's the thing with 25 Cornerstone or just with Mr. Keeley.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Yes. 2 Q. Before I -- I -- before I ask about Dan, the 3 economists role, again, here, you -- you believe that 4 the Consumer Financial Protection Bureau's mandate of 5 consumer disclosures is bad for consumers, right, as a 6 general concept? That's your -- your professional 7 belief, correct? 8 MR. NEWMAN: Objection; argumentative; lacks 9 foundation. 10 MR. BENNETT: No. It doesn't lack foundation, 11 and it's not argumentative. There are many people, 12 including current administration, that believe that. So 13 I'm asking trying to get the baseline for this witness' 14 professional opinions. 15 BY MR. BENNETT: 16 Q. Do you believe as a general concept that the 17 financial institution and related disclosures that the 18 Consumer Financial Protection Bureau has mandated over 19 the last several years are bad for consumers, as a 20 general concept? 21 MR. NEWMAN: Objection; vague and ambiguous. 22 You can answer. 23 THE WITNESS: No. I wouldn't offer a general 24 statement about that particular question. To the extent 25 that I have opinions, I research them on an</p>
<p style="text-align: right;">Page 35</p> <p>1 Are there -- 2 MR. NEWMAN: The witness said he didn't know 3 Mr. Keeley. 4 BY MR. BENNETT: 5 Q. Are there any people at Cornerstone who helped 6 you write the text that became your expert report? 7 A. No. I wrote the report myself. The words in 8 it -- 9 Q. Okay. 10 A. -- are my own. 11 Q. And did Dan provide you any research, any 12 documents to use that you later cite in footnotes in 13 your report? 14 MR. NEWMAN: And you're referring to Dan 15 Schmierer? 16 MR. BENNETT: Yes. 17 MR. NEWMAN: Go ahead. You can answer. 18 THE WITNESS: Yes. 19 BY MR. BENNETT: 20 Q. Okay. And which particular -- in fact, you have 21 the report in front of you. So why don't we start 22 there? The first footnote that I see that cites outside 23 research is at page 3, and it's the Consumer Financial 24 Protection Bureau. That's the year-end report, footnote 25 1. Do you see that?</p>	<p style="text-align: right;">Page 37</p> <p>1 issue-by-issue basis. 2 BY MR. BENNETT: 3 Q. So what consumer disclosures did the Consumer 4 Financial Protection Bureau has mandated do you believe 5 are good for consumers? 6 MR. NEWMAN: Objection. 7 Go ahead. 8 THE WITNESS: I'm not sure exactly what you mean 9 by, "good for consumers," and I haven't engaged in any 10 research that would offer a general conclusion about 11 disclosures being overall good for consumers or bad for 12 consumers. 13 BY MR. BENNETT: 14 Q. Okay. Do you believe that the -- do you believe 15 that the enactment of Dodd-Frank was good for consumers 16 or bad for consumers, generally? 17 MR. NEWMAN: Objection; outside the scope. 18 But you can answer. 19 MR. BENNETT: Well, I mean, I've read a number 20 of the -- of your witness' publications. So I'm just 21 trying to determine whether he's going to remain 22 consistent to the views taken in the publications. 23 MR. NEWMAN: I'm not telling him not to answer. 24 I just think you're going pretty far afield what the 25 scope of the deposition is.</p>

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<p>1 MR. BENNETT: Well, no. If you have a witness 2 who believes that disclosures distort the market and 3 limit consumer choice, that's a certain baseline. 4 MR. NEWMAN: No. That's an argument. That's an 5 argumentative term. 6 BY MR. BENNETT: 7 Q. Do you believe that consumer disclosures often 8 distort the economic markets and limit consumer choice? 9 MR. NEWMAN: Objection. 10 You can answer. 11 THE WITNESS: I would not offer that as a 12 general statement. No. 13 BY MR. BENNETT: 14 Q. All right. So let's look at the footnote to 15 your report. Cites the Consumer Financial Protection 16 Bureau, December 2012 credit reporting report, and we'll 17 call it the CFPB report. Do you see that? 18 A. Yes. 19 Q. Who gave this report to you for consideration in 20 this project? 21 A. The background research for this report was 22 undertaken by me and by the staff of Cornerstone 23 Research working under my direction. I found some of 24 the sources myself, and they provided me with sources 25 based on directions that I provided to them. This</p>	<p>1 report. 2 MR. BENNETT: And by the way, we've been on the 3 record for a little bit. Do you want to take a break 4 now? 5 MR. NEWMAN: Yeah. 6 MR. BENNETT: I don't need to, but I'm certainly 7 able to, willing to. 8 MR. NEWMAN: I -- I -- 9 MR. BENNETT: If you don't now, you can -- 10 MR. NEWMAN: I could use a short break, Len, to 11 use the restroom. 12 MR. BENNETT: All right. 13 MR. NEWMAN: So if you want to -- 14 MR. BENNETT: Let's go off the record for five 15 minutes. 16 THE VIDEOGRAPHER: We're off the record at 17 11:55. 18 (A recess was held from 11:55 a.m. to 12:03 p.m.) 19 THE VIDEOGRAPHER: We are back on the record at 20 12:03. 21 BY MR. BENNETT: 22 Q. All right. Mr. Stango, do you have page 1 of 23 your expert witness report in front of you? At the 24 bottom, it says, page 1. 25 A. Yes.</p>
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<p>1 particular source is one that I cannot definitively 2 identify, as I sit here today, as one provided to me by 3 them or as one that I found myself as part of my own 4 background research. 5 Q. Okay. Certainly you would have read this 6 report, the CFPB report, before this case or before the 7 Dennis case, right? 8 A. I believe -- 9 Q. I'm about to ask you that same question and 10 repeat it saying you understand you're under oath. 11 MR. NEWMAN: Yeah. I think the question -- 12 BY MR. BENNETT: 13 Q. So why don't I skip to that and say, are you 14 able to say under oath that you have read and reviewed 15 the CFPB report before you were hired by TransUnion in 16 any of the cases in which Mr. Newman represents it? 17 A. If the question is about all of the cases on 18 which I've worked with TransUnion, I cannot be 19 100 percent sure, but I don't believe I read this report 20 before I became involved in those cases. It was 21 something that I found as part of my background research 22 or that Cornerstone, working under my direction, found 23 for me. 24 Q. Okay. So let's go back one page or two page -- 25 two pages to page 1. So let's just work through the</p>	<p>1 Q. I want to start with paragraph 2. It says, "I 2 am an expert on consumer behavior and financial service 3 markets." Do you see that? 4 A. Yes. 5 Q. You have never published any research regarding 6 consumer interpretations of their credit reports, right? 7 MR. NEWMAN: Objection. 8 You can answer. 9 THE WITNESS: As I said, it's a little bit 10 difficult for me to remember, here, as I sit, every word 11 I've ever published. I don't recall any studies overall 12 that focused on the specific issue you mention. But as 13 I said, I have studied, as part of my academic career, 14 consumer behavior and financial services and consumers' 15 interpretation of disclosures. 16 BY MR. BENNETT: 17 Q. So the answer to my question, you have not done 18 any research on consumer interpretations of their credit 19 report, the answer to that question is, no, you have not 20 done that research, right? 21 MR. NEWMAN: Objection; argumentative. 22 You can answer. 23 THE WITNESS: If you're talking about published 24 academic research, as I sit here now, I can't recall. 25 No.</p>

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<p style="text-align: right;">Page 42</p> <p>1 BY MR. BENNETT:</p> <p>2 Q. Well, other than anecdotal research with</p> <p>3 neighbors and friends, have you ever done any research</p> <p>4 about consumer interpretations of their credit report?</p> <p>5 A. Yes. I did so for the purposes of preparing</p> <p>6 this report.</p> <p>7 Q. Right. Well, you did, essentially, a book</p> <p>8 report, right? You just read other people's</p> <p>9 publications and you summarized them. I don't mean</p> <p>10 that. I mean actual research where you speak to</p> <p>11 consumers or gather actual data from consumers.</p> <p>12 MR. NEWMAN: Objection; argumentative.</p> <p>13 You can answer.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. Let me try it differently. Have you ever</p> <p>16 done -- what do you call it in academia? You call it</p> <p>17 primary research, right?</p> <p>18 A. There is such a term; although, it can vary in</p> <p>19 meaning across fields and disciplines.</p> <p>20 Q. Well, however it varies across disciplines, in</p> <p>21 your discipline, you have never done primary research of</p> <p>22 consumer behavior and financial services markets</p> <p>23 regarding the interpretations of credit files, right?</p> <p>24 A. In my academic career, that's true. I do agree</p> <p>25 with something that you said, which is that if were --</p>	<p style="text-align: right;">Page 44</p> <p>1 service settings. I list that in paragraph 2.</p> <p>2 BY MR. BENNETT:</p> <p>3 Q. Okay. Let's -- then let's focus on that. Can</p> <p>4 you tell me and help me identify the specific research</p> <p>5 projects or publications in which your -- in which you</p> <p>6 researched consumer interpretations of financial</p> <p>7 disclosures?</p> <p>8 A. I can try. There have been more than one such</p> <p>9 projects.</p> <p>10 Q. Of course, that is why you claim to be an expert</p> <p>11 here, right?</p> <p>12 MR. NEWMAN: Let him --</p> <p>13 BY MR. BENNETT:</p> <p>14 Q. Because you're an expert on consumer</p> <p>15 interpretations of financial disclosures?</p> <p>16 MR. NEWMAN: Let him -- let him finish his</p> <p>17 answer to the pending question.</p> <p>18 MR. BENNETT: I'm sorry. Yes.</p> <p>19 THE WITNESS: In the paper, Fuzzy Math</p> <p>20 Disclosure Regulation and Credit Market Outcomes, my</p> <p>21 coauthors and I discuss consumer interpretation of</p> <p>22 disclosures from financial institutions.</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. It --</p> <p>25 A. We use similar --</p>
<p style="text-align: right;">Page 43</p> <p>1 one were to study consumer interpretation to</p> <p>2 disclosures, one would want to involve individual</p> <p>3 consumers, as many of the studies I cite in my report</p> <p>4 do.</p> <p>5 Q. Well, we'll talk about other people's research,</p> <p>6 but they're not the expert witnesses here. I'm trying</p> <p>7 to understand whether you're qualified, and one of the</p> <p>8 qualifications you cite is your research. So I want to</p> <p>9 know not how good you are at reading. I'm good at that</p> <p>10 too. I'm trying to figure out whether you, besides your</p> <p>11 expert reading skills, have done research of consumer</p> <p>12 interpretations of credit reports.</p> <p>13 MR. NEWMAN: Object.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. And the -- the fact, isn't it true, you have</p> <p>16 never done any primary research of the way that</p> <p>17 consumers interpret their credit reports or credit file</p> <p>18 disclosures, right?</p> <p>19 MR. NEWMAN: Objection; argumentative.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: I believe I've answered the</p> <p>22 question and said that while I have not conducted</p> <p>23 academic published research that directly pertains to</p> <p>24 what you mentioned, I have published on issues of</p> <p>25 consumer interpretation of disclosures in financial</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. NEWMAN: Len, he's not --</p> <p>2 MR. BENNETT: I'm sorry?</p> <p>3 MR. NEWMAN: He hasn't finished his response.</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. Okay. Go ahead.</p> <p>6 A. We use similar data documenting diversity in how</p> <p>7 consumers interpret terms of consumer loan contracts as</p> <p>8 presented to them in a survey context in that paper and</p> <p>9 also in the paper, Exponential Growth Bias and Household</p> <p>10 Finance.</p> <p>11 In the papers listed at the top, the most recent</p> <p>12 papers, both of those use a large data set that, among</p> <p>13 other things, documents consumer responses, information</p> <p>14 received from financial institutions, and diversity in</p> <p>15 such responses, and consumer interpretation of</p> <p>16 information about the terms of financial service</p> <p>17 products.</p> <p>18 Q. I'm -- I'm confused. I was asking you about</p> <p>19 only the publications and research that you've done</p> <p>20 regarding consumer interpretations of financial</p> <p>21 disclosures.</p> <p>22 MR. NEWMAN: I believe that's the question he</p> <p>23 answered.</p> <p>24 BY MR. BENNETT:</p> <p>25 Q. Not -- I'm not asking about the claim of having</p>

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<p style="text-align: right;">Page 46</p> <p>1 some idea about consumer behavior. It's a different 2 topic for a different moment after this one. 3 I'm asking you about the interpretation of 4 financial disclosures, and you said No. 4, the Fuzzy 5 Math, right? 6 A. Yes. 7 Q. And that's the same -- what newspaper did you 8 and Mr. Zinman publish that in, essentially, a lay 9 version of that? 10 A. I don't recall the two of us publishing a lay 11 version of that in a newspaper. 12 Q. Okay. 13 A. If you could be more specific, maybe I can 14 remember it. 15 Q. Sure. Let me go to your website again and get 16 the full name of it. Sorry. The New York Times, 17 March 28, 2010, you and Mr. Zinman, quote, "Argue that 18 the debate over the proposed consumer financial 19 protection agency should be over what the agency does 20 not where it is located and the government's 21 bureaucracy." 22 You wrote that article with Mr. Zinman, right? 23 A. Yes. 24 Q. Okay. Did you write any other New York Times 25 pieces with Mr. Zinman?</p>	<p style="text-align: right;">Page 48</p> <p>1 A. In that article, we referred to research showing 2 that in some cases mandated disclosure can increase the 3 cost of credit that consumers pay. There's no general 4 statement there. That statement itself is a reference 5 to the research that appears on my curriculum vitae, 6 Fuzzy Math, Disclosure Regulation and Credit Market 7 Outcomes, in which we used data from Truth in Lending 8 reform in the late '70s and early 1980s to assess the 9 impact of that regulation on terms of credit that 10 consumers paid on some of their loans. 11 We documented that there were diverse effects 12 both in terms of how different consumers were affected 13 based on their diverse interpretations of loan terms. 14 We also documented diversity in how financial 15 institutions apparently responded to that reform. The 16 statement in the New York Times piece, as I recall, and 17 it was many years ago, is a reference to that prior 18 work, a specific one. 19 Q. But -- but the research that you summarized in 20 Fuzzy Math, you were summarizing, again, somebody else's 21 primary research, right? 22 A. I wouldn't characterize it that way. No. The 23 research we undertook in that paper -- 24 Q. How many consumers -- 25 MR. NEWMAN: Let him finish his -- let him</p>
<p style="text-align: right;">Page 47</p> <p>1 A. I don't recall any, as I sit here now. 2 Q. And do you recall the subject of that piece in 3 the New York Times? 4 MR. NEWMAN: Objection; the article speaks for 5 itself. 6 But go ahead. 7 THE WITNESS: I believe that the subtitle that 8 you quoted describes it accurately. It was about the 9 consumer protection -- financial protection bureau -- 10 excuse me -- Consumer Financial Protection Bureau. 11 BY MR. BENNETT: 12 Q. And in fact, you took the position that the 13 Consumer Financial Protection Bureau should not focus on 14 mandating disclosures which you describe as not coming 15 cheap, mandated disclosures? That's the position you -- 16 you believe, right? 17 MR. NEWMAN: Objection. 18 You can answer. 19 THE WITNESS: I don't have the article in front 20 of me. And if I did, I could offer a more precise 21 answer. But my recollection is that we did not advocate 22 against mandated disclosure in that article. 23 BY MR. BENNETT: 24 Q. But you did advocate that mandated disclosure 25 increased the cost of credit, right?</p>	<p style="text-align: right;">Page 49</p> <p>1 finish his answer. 2 THE WITNESS: The research we undertook in that 3 paper was original. 4 BY MR. BENNETT: 5 Q. Okay. Well, all right. So we've got Fuzzy Math 6 out of the way and, also, No. 7, your summer 2009 7 Exponential Growth Bias and Household Finance piece. 8 Which other publications do you contend under oath were 9 focused on or primarily regarded how consumers interpret 10 financial disclosures? 11 A. I believe I listed the top two there as ones 12 that were projects in which we examined and analyzed 13 data regarding how consumers respond to disclosures and 14 communications from financial institutions. 15 Q. Okay. All right. Let's go back up to page 1 of 16 your report. 17 MR. NEWMAN: Page -- page 1 of the report or 18 page 1 of appendix A? 19 MR. BENNETT: Page 1 of the report, and I guess, 20 let's -- might as well skip to page 2 of the report. 21 BY MR. BENNETT: 22 Q. When is the first time -- well, I'm sorry. Let 23 me try it differently. 24 Isn't it true that the first time that you read 25 the Fair Credit Reporting Act text was after TransUnion</p>

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<p style="text-align: right;">Page 50</p> <p>1 hired you to provide an expert witness report in one of 2 its consumer cases?</p> <p>3 A. I'm not sure which provision of the Fair Credit 4 Reporting Act you're referring to. Over the years, as 5 part of my academic research, I've read parts of many, 6 many different government laws and regulations that 7 pertain to consumer household financial matters. And 8 so, no, I can't say for sure that that would have been 9 the first time. It's entirely possible that I read it 10 earlier but just don't recall when.</p> <p>11 Q. In paragraph 6 you say, "I understand that the 12 legal definition of the sources of information is a 13 disputed point in this litigation." Do you see that?</p> <p>14 A. I don't think that's exactly what I said.</p> <p>15 MR. NEWMAN: He's beginning with the second 16 sentence.</p> <p>17 THE WITNESS: "I understand that this legal 18 definition is a disputed point in this litigation," yes. 19 I wrote that.</p> <p>20 BY MR. BENNETT:</p> <p>21 Q. What was the source of your information that 22 that is a disputed point in this litigation?</p> <p>23 A. The source of that information was counsel.</p> <p>24 Q. Mr. Newman.</p> <p>25 If you'll turn to the next page, on the bottom</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Is it possible that you read the term in 2 communications with counsel or Dan?</p> <p>3 MR. NEWMAN: The question is --</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. Dan, TransUnion Dan.</p> <p>6 MR. NEWMAN: Is the question, did he read that 7 in something that was written and sent to you by --</p> <p>8 MR. BENNETT: Yes.</p> <p>9 MR. NEWMAN: -- me or Dan Halvorsen?</p> <p>10 THE WITNESS: If you mean written by one of the 11 two, I don't believe so, but it's possible the term was 12 included in some of the background materials on which I 13 rely. I don't recall receiving an e-mail containing 14 that language, for example.</p> <p>15 BY MR. BENNETT:</p> <p>16 Q. If you could turn to page 5 of your report, 17 please. In paragraph 11 of your report you cite to a -- 18 first, you cite to the Federal Reserve bulletin in 2003, 19 quote, "An overview of consumer data and credit 20 reporting." Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And -- and in your time with the Federal 23 Reserve, this would not have been a publication that 24 you -- well, this is not a subject matter, rather, that 25 you were employed to address at the Federal Reserve,</p>
<p style="text-align: right;">Page 51</p> <p>1 of page 3, there's a term I want to -- I want to 2 understand. The very last line in the text of page 3 3 you mentioned the term, with quotes, "Credit file 4 disclosure." Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Where did you hear that term used or read that 7 term, that exact term used?</p> <p>8 A. I can't recall exactly. I believe I've seen 9 that term, and terms like it, in various places as part 10 of my research leading up to the preparation of this 11 report.</p> <p>12 Q. That's what defense lawyers in Fair Credit 13 Reporting Act cases typically use. So it's not an 14 industry term.</p> <p>15 MR. NEWMAN: Objection.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. I'm trying to, therefore, focus, more 18 specifically, on where you got it from. Because you 19 don't footnote that.</p> <p>20 MR. NEWMAN: Objection.</p> <p>21 BY MR. BENNETT:</p> <p>22 Q. Where -- do you know where you got that from?</p> <p>23 A. I can't recall exactly. It's possible that I 24 heard the term from counsel at some point, and it's also 25 possible that I read it somewhere else.</p>	<p style="text-align: right;">Page 53</p> <p>1 right, credit reporting?</p> <p>2 A. I didn't write this article, and that's correct 3 that during my time at the Federal Reserve I was not 4 specifically asked by staff to work on issues related to 5 credit reporting.</p> <p>6 Q. What was your job --</p> <p>7 MR. NEWMAN: Let him finish.</p> <p>8 BY MR. BENNETT:</p> <p>9 Q. What was your job -- what was your area of 10 responsibility at the Federal Reserve when you worked 11 there?</p> <p>12 A. I was, first, an economist and then a senior 13 economist at the Federal Reserve Banks of Chicago and 14 then, briefly, New York; and to characterize it, 15 generally, in both of those positions, I was in groups 16 that studied household finance, meaning consumer infirm 17 behavior in retail banking markets.</p> <p>18 Q. How many college courses, either undergrad or 19 grad, are you teaching this semester at the University 20 of California?</p> <p>21 A. We're on quarters, but I taught four classes 22 this quarter, four sessions of a course called markets 23 and the firm.</p> <p>24 Q. What is that about?</p> <p>25 A. Markets and the firm is the core course in</p>

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<p>1 microeconomics in the UC Davis MBA program.</p> <p>2 Q. And is it -- is it a marketing-designated course</p> <p>3 or management or economics?</p> <p>4 A. It's a foundational course that precedes other</p> <p>5 coursework in economics, and also marketing.</p> <p>6 Q. So my MBA program didn't -- we didn't have to</p> <p>7 take -- we didn't have any economic courses that were</p> <p>8 within the school of management. So I'm trying to</p> <p>9 understand the way your -- of course, you're much more</p> <p>10 well-respected MBA program that handles things. Can you</p> <p>11 tell me, is this -- is this a base level -- we'll call</p> <p>12 it an entry-level MBA course?</p> <p>13 A. I suppose you could call it that. It's a core</p> <p>14 course that all students are required to take.</p> <p>15 Q. All right. And it doesn't have anything to do</p> <p>16 with credit reporting, right?</p> <p>17 A. The core material would not have anything to do</p> <p>18 with credit reporting. No. It's a general course</p> <p>19 intended to give students foundational tools in economic</p> <p>20 thinking, in economic analysis, and to serve as</p> <p>21 preparation for their later coursework in finance, in</p> <p>22 accounting, in marketing, and their careers beyond that.</p> <p>23 Q. Okay. And in the previous quarter, other than</p> <p>24 that course and sections of that course, what other</p> <p>25 courses did you teach?</p>	<p>1 very similar to the course I teach now. It was the core</p> <p>2 microeconomics course in our MBA program in the top</p> <p>3 school at Dartmouth. I also taught an elective focused</p> <p>4 on competitive strategy and economics. That's all.</p> <p>5 Q. And then a while before that, back before 2001,</p> <p>6 you taught at the University of Tennessee, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Was that the graduate business program or</p> <p>9 undergraduate or both?</p> <p>10 A. I taught both graduate and undergraduate courses</p> <p>11 and also some executive MBA courses.</p> <p>12 Q. Okay. And what courses did you teach at the</p> <p>13 university? Subject courses?</p> <p>14 A. I'll do my best to remember. I taught the same</p> <p>15 course that I teach now, the core MBA microeconomics</p> <p>16 course. I taught a variant of that class to executives.</p> <p>17 I taught an undergraduate course in regulation and</p> <p>18 antitrust. I taught an undergraduate course in what I</p> <p>19 remember was called public finance. I taught a Ph.D.</p> <p>20 course in industrial organization, which is the field of</p> <p>21 economics that studies competitive interactions between</p> <p>22 firms. I think that's it.</p> <p>23 Q. Have you ever requested and received from</p> <p>24 Equifax, TransUnion, Experian a copy of your own</p> <p>25 personal credit report?</p>
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<p>1 A. I didn't teach in the prior quarter. I teach or</p> <p>2 have taught for the last several years in the fall</p> <p>3 quarter alone.</p> <p>4 Q. And in each of those fall quarters, have you</p> <p>5 taught, essentially, the same course, what is it --</p> <p>6 marketing in firms -- marketing and the firm?</p> <p>7 A. I have taught the same course. Yes.</p> <p>8 Q. And how far back do we have to go in your job at</p> <p>9 the University of California before we pick up a</p> <p>10 different course besides that one that you've taught?</p> <p>11 A. Well, in my time as professor at UC Davis, I've</p> <p>12 taught only that class. That's the course that I</p> <p>13 started teaching when I was hired, and it's the course</p> <p>14 I've been asked to teach ever since.</p> <p>15 Q. And you're an associate professor?</p> <p>16 A. That's my title. Yes.</p> <p>17 Q. And you're not tenured, right?</p> <p>18 A. That's incorrect. I have tenure.</p> <p>19 Q. You -- okay. Thank you. And prior to that, you</p> <p>20 were at Dartmouth, right?</p> <p>21 A. Yes.</p> <p>22 Q. And what courses did you teach at Dartmouth?</p> <p>23 A. I taught two courses at Dartmouth, one called,</p> <p>24 as I remember -- actually, I'm just going to say I can't</p> <p>25 remember the exact course title, but that course was</p>	<p>1 A. Yes.</p> <p>2 Q. When is the last time that you saw your own</p> <p>3 personal credit report?</p> <p>4 A. Within the last month.</p> <p>5 Q. Was there anything inaccurate in it?</p> <p>6 MR. NEWMAN: Looking for another client?</p> <p>7 THE WITNESS: I can't be sure. I didn't look at</p> <p>8 every page in detail.</p> <p>9 BY MR. BENNETT:</p> <p>10 Q. Why did you look at a copy of your credit</p> <p>11 report?</p> <p>12 A. I'm going through a divorce.</p> <p>13 Q. And prior to that -- I'm sorry.</p> <p>14 But prior to that, had you ever seen a copy of</p> <p>15 your credit report?</p> <p>16 A. Yes.</p> <p>17 Q. And why did you look at a copy of your credit</p> <p>18 report? And -- what are the different reasons that you</p> <p>19 have asked for and looked at a copy of your credit</p> <p>20 report?</p> <p>21 A. There have been many over the years. I have</p> <p>22 examined my report a few times in the last few years to,</p> <p>23 in part, understand my credit score. I have examined my</p> <p>24 credit report because I knew that I might apply for</p> <p>25 credit in the future, and I wanted to understand what</p>

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<p style="text-align: right;">Page 58</p> <p>1 information was on the credit report. I receive my 2 credit report or obtain it periodically to make sure 3 that I'm current on my loan payments and that I haven't 4 missed any and forgotten about it. I think there are 5 probably other reasons, too. 6 Q. Did you ever pay for a copy of your credit 7 report? 8 A. Yes. 9 Q. And so, you, of all people, I assume would agree 10 with me, that you would pay an amount for your credit 11 report that was equal to or less than the value of that 12 credit report to you, right? 13 MR. NEWMAN: Objection; relevance. 14 But you can answer. 15 THE WITNESS: As a general matter, yes, if I 16 purchased a credit report, I did so because I thought it 17 could provide me with value. 18 BY MR. BENNETT: 19 Q. And of course, cash is an easy measure of value, 20 but -- but for most individuals, for all -- every 21 individual, really, time itself has some value greater 22 than 0.0, right? 23 MR. NEWMAN: Objection; incomplete hypothetical. 24 You can answer. 25 THE WITNESS: It's difficult for me to answer</p>	<p style="text-align: right;">Page 60</p> <p>1 valuable than time they may spend doing something else, 2 right? 3 A. I discussed the time aspect of reading 4 disclosures and credit reports in the expert report that 5 I've submitted here today and note that in some 6 circumstances consumers may choose not to read a report 7 if it's something that would take too much time for 8 them. 9 Q. So the point I'm heading to is that the act of 10 obtaining and reading a consumer report is an act by the 11 consumer that reveals the consumer values obtaining and 12 reading the consumer report equal to or more -- or 13 greater than the resource they have given up to access 14 and read the consumer report, time, or money, in your 15 case particularly, when you bought your report, right? 16 MR. NEWMAN: Objection. 17 BY MR. BENNETT: 18 Q. You can agree that that is true? 19 MR. NEWMAN: Objection; lack of foundation; 20 incomplete hypothetical. 21 You can answer. 22 THE WITNESS: I suppose as a general matter, one 23 would agree -- I would agree that time and money costs 24 are something that some consumers consider when making 25 the decision about whether to obtain a credit report. I</p>
<p style="text-align: right;">Page 59</p> <p>1 such a general question. I understand that some 2 individuals value their time and that the value of such 3 time to them will vary from situation to situation and 4 from individual to individual. 5 BY MR. BENNETT: 6 Q. Well, again, I'm not assigning a relative 7 valuations to time, but as an economist that studies 8 human behavior, you would agree that the marginal value 9 of time for really all rational humans would be greater 10 than absolute zero, right? 11 MR. NEWMAN: Objection; incomplete hypothetical. 12 You can answer. 13 THE WITNESS: I -- I don't quite understand the 14 specific context in which you're framing the question. 15 Time has value to consumers. You used the word, 16 "rational." I'm not sure what you mean by, "rational 17 consumer," in that context. 18 BY MR. BENNETT: 19 Q. Okay. Well -- 20 A. If I had a more specific -- 21 Q. I think we've agreed. 22 A. -- case, I think I could answer the question. 23 Q. So a consumer would not read their consumer 24 report unless they, that consumer, concluded that the 25 time they spent on that consumer report was more</p>	<p style="text-align: right;">Page 61</p> <p>1 don't know that a choice to obtain a credit report would 2 reveal anything specific about any one individual's 3 value of time or value from the report. Different 4 individuals will attach different values to their 5 reports. They will attend to the things they find most 6 important. 7 BY MR. BENNETT: 8 Q. Sure. But I'm assuming my -- my question is not 9 relative value. It's -- it's whether there is any value 10 greater than absolute zero, whether the consumer 11 believes that the value of reading a report is greater 12 than absolute zero being revealed by the fact that they 13 did buy and/or read, took the time to read the report. 14 You would agree the consumer act of buying or reading or 15 both a consumer report reveals that that consumer 16 believed it was worth more than in time and/or money the 17 not doing so, right? 18 MR. NEWMAN: Objection; incomplete hypothetical; 19 misstates testimony. 20 THE WITNESS: I suppose if one thinks about it 21 generally enough, then consumers make choices. Many 22 consumers make choices using such approaches to 23 decision-making, but every consumer is different. 24 BY MR. BENNETT: 25 Q. Well, I -- I understand. So in your</p>

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<p>1 circumstances you have, on multiple occasions, obtained</p> <p>2 and looked at your personal consumer report, right?</p> <p>3 A. Yes.</p> <p>4 Q. And you presume that the information that you're</p> <p>5 reading is an accurate statement of the actual</p> <p>6 information in your credit file, right?</p> <p>7 A. No. I understand that sometimes credit file</p> <p>8 disclosures can contain incomplete information or</p> <p>9 inaccuracies.</p> <p>10 Q. Well, that's not my question. Listen to my</p> <p>11 question. I'm not asking whether the information is</p> <p>12 accurate or inaccurate. Steve wouldn't have a job if it</p> <p>13 was -- if it was accurate all the time.</p> <p>14 MR. NEWMAN: I would find plenty of things to</p> <p>15 do, Len. Don't you worry.</p> <p>16 MR. BENNETT: Yes.</p> <p>17 BY MR. BENNETT:</p> <p>18 Q. Okay. My question is, you are looking at, and</p> <p>19 in many instances, buying your consumer report or your</p> <p>20 credit report, based on an assumption that that report</p> <p>21 will reveal to you -- accurately reveal to you the state</p> <p>22 of your credit file, not reality, of whether you owe the</p> <p>23 debt or don't owe the debt, but you're buying that</p> <p>24 report because you believe that's an accurate statement</p> <p>25 of what, for example, TransUnion would report about you</p>	<p>1 Q. Well, let me -- we're -- we're missing each</p> <p>2 other here. The purpose for any of those reasons in</p> <p>3 order for any of the repurposes that a consumer would</p> <p>4 want to look at their report, to have any value to the</p> <p>5 inquiring consumer is a basic assumption that the file</p> <p>6 disclosure the consumer is getting from the agency</p> <p>7 accurately reflects what is in the agency file, correct?</p> <p>8 MR. NEWMAN: Objection; foundation.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: I have no basis for a general</p> <p>11 statement that all consumers who obtain their files make</p> <p>12 that assumption, and indeed, I believe that in order to</p> <p>13 learn whether a particular consumer in -- made that</p> <p>14 assumption or did not make that assumption or what else</p> <p>15 that consumer believed about what the file might or</p> <p>16 might not contain, one would need to ask that consumer</p> <p>17 at the time of their purchase or at the time during</p> <p>18 which they otherwise obtained a copy of their report.</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. All right. I like this line of questioning, and</p> <p>21 I like your answer. So I want to keep developing, and I</p> <p>22 want you to keep saying it in a bunch of different ways.</p> <p>23 And I want to make sure I understand what you're saying.</p> <p>24 What you're saying is, response to my question,</p> <p>25 that you do not take it as a given that a consumer that</p>
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<p>1 in your credit report, right?</p> <p>2 MR. NEWMAN: Objection; relevance.</p> <p>3 Go ahead.</p> <p>4 THE WITNESS: I can't say that I've thought</p> <p>5 about it in my specific instance quite in that way. I</p> <p>6 don't, as a consumer, try to think in that much detail</p> <p>7 about the length between what I see on the report and</p> <p>8 information that may be anywhere else within TransUnion.</p> <p>9 BY MR. BENNETT:</p> <p>10 Q. What possible value for any consumer is provided</p> <p>11 by obtaining and reading that consumer's consumer file</p> <p>12 disclosure?</p> <p>13 A. Consumers obtain reports for many reasons. They</p> <p>14 do it to learn their credit scores, they do it to check</p> <p>15 their reports for accuracy, they do it because they're</p> <p>16 contemplating taking out a loan and they'd like to know</p> <p>17 the state of their file. Every consumer has an</p> <p>18 individual specific motivation at the time of obtaining</p> <p>19 the report. It could be --</p> <p>20 Q. That -- that --</p> <p>21 A. -- a function of many of those things or even</p> <p>22 some other things that one would only know by asking</p> <p>23 that consumer why he or she chose to obtain the report</p> <p>24 and what value he or she anticipated receiving from that</p> <p>25 report.</p>	<p>1 is asking to see their TransUnion file disclosure is</p> <p>2 doing so under the belief that what they get back is a</p> <p>3 copy of their TransUnion file?</p> <p>4 You say you have no idea whether or not that's a</p> <p>5 basic fair economic assumption that the consumer who's</p> <p>6 obtaining a copy of their TransUnion file disclosure is</p> <p>7 assuming that what is being disclosed to them is their</p> <p>8 TransUnion file?</p> <p>9 MR. NEWMAN: Objection.</p> <p>10 BY MR. BENNETT:</p> <p>11 Q. Right?</p> <p>12 MR. NEWMAN: Objection; misstates testimony.</p> <p>13 BY MR. BENNETT:</p> <p>14 Q. Your opinion is that consumers do not -- you</p> <p>15 cannot predict whether a consumer who asks for a copy of</p> <p>16 their TransUnion credit file assumes in so asking that</p> <p>17 what they'll get back is a copy of their TransUnion</p> <p>18 credit file?</p> <p>19 MR. NEWMAN: Objection; misstates testimony.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: I wouldn't say anything general</p> <p>22 about what consumers do or do not assume when each</p> <p>23 individual consumer obtains his or her TransUnion file.</p> <p>24 Consumers decide to obtain their files for varying</p> <p>25 reasons. They would --</p>

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<p>1 BY MR. BENNETT:</p> <p>2 Q. I --</p> <p>3 MR. BENNETT: Objection. I'm not asking that</p> <p>4 question.</p> <p>5 BY MR. BENNETT:</p> <p>6 Q. I have not asked that question once here in this</p> <p>7 line, and you're wasting your time and my time.</p> <p>8 MR. NEWMAN: Let him finish his response.</p> <p>9 BY MR. BENNETT:</p> <p>10 Q. I asked you --</p> <p>11 MR. BENNETT: No, I'm not. I'm not gonna -- if</p> <p>12 he wants to sit here and tell me a list of people who</p> <p>13 won the World Series over the last century, I'm not</p> <p>14 going to sit here and listen to it. I'm asking the</p> <p>15 witness a specific line of questions, which he's refused</p> <p>16 repeatedly to answer.</p> <p>17 BY MR. BENNETT:</p> <p>18 Q. I'm not asking you why someone asks for a copy</p> <p>19 of their credit report. I'm asking you, Professor, a</p> <p>20 professor who represents themselves as understanding</p> <p>21 human behavior, whether a core assumption in predicting</p> <p>22 consumer behavior for consumers who ask for a copy of</p> <p>23 their TransUnion credit file is that they are assuming</p> <p>24 what they'd get back would be a copy of their TransUnion</p> <p>25 credit file.</p>	<p>1 reported as a trade line, at least one credit card you</p> <p>2 saw reported as a trade line in your credit report,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. And do you believe that the value of the credit</p> <p>6 reporting agency disclosing to you accurately the</p> <p>7 identity of the credit card companies that it is</p> <p>8 reporting about you is greater than absolute zero?</p> <p>9 MR. NEWMAN: Objection; relevance.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: I don't think I've ever thought</p> <p>12 about it in that way before. I expect that they will</p> <p>13 show me data and information about my credit card,</p> <p>14 including the identity of the issuer and other</p> <p>15 information that they have on file.</p> <p>16 MR. NEWMAN: We've -- we've gone for about an</p> <p>17 hour more. Do you want to take another short break?</p> <p>18 MR. BENNETT: Sure. If you want to.</p> <p>19 MR. NEWMAN: Yeah.</p> <p>20 THE VIDEOGRAPHER: Okay. This is the end of the</p> <p>21 disk. So we're off the record at 12:55.</p> <p>22 (A recess was held from 12:55 p.m. to 1:16 p.m.)</p> <p>23 THE VIDEOGRAPHER: This is beginning of disk</p> <p>24 two. We're back on the record at 1:16.</p> <p>25 //</p>
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<p>1 MR. NEWMAN: Have you finished yelling at the</p> <p>2 witness?</p> <p>3 MR. BENNETT: I'm not yelling at the witness.</p> <p>4 I'm yelling at a TV screen. So yes.</p> <p>5 MR. NEWMAN: Well, objection; misstates</p> <p>6 testimony.</p> <p>7 You can answer.</p> <p>8 THE WITNESS: I'd like to hear the question</p> <p>9 again.</p> <p>10 BY MR. BENNETT:</p> <p>11 Q. Sure. Let me try it again. Save Nicole the</p> <p>12 effort.</p> <p>13 Do you agree that a fair assumption for</p> <p>14 consumers who ask for a copy of their TransUnion credit</p> <p>15 file is that they are doing so under the belief that</p> <p>16 they will receive a copy of their TransUnion credit</p> <p>17 file?</p> <p>18 MR. NEWMAN: Same objection.</p> <p>19 You can answer.</p> <p>20 THE WITNESS: If you're asking me whether</p> <p>21 consumers who obtain a credit file expect that they are</p> <p>22 obtaining a credit file, I would say as a general</p> <p>23 matter, yes.</p> <p>24 BY MR. BENNETT:</p> <p>25 Q. Okay. Now, you have a credit card that you saw</p>	<p>1 BY MR. BENNETT:</p> <p>2 Q. Take a look at page 7 of your report, please.</p> <p>3 Let's just take a look at subsection D, which is your</p> <p>4 statement that, "Public record information and credit</p> <p>5 files may contain several different types of errors and</p> <p>6 omissions." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And then you proceed to describe various types</p> <p>9 of errors and statistical distribution of those</p> <p>10 errors -- error categories. Right?</p> <p>11 MR. NEWMAN: On page 8.</p> <p>12 MR. BENNETT: Page 7 and 8, right, paragraphs 18</p> <p>13 and 19.</p> <p>14 THE WITNESS: Those paragraphs describe the</p> <p>15 errors that consumers perceive and how often they</p> <p>16 dispute because of one perceived error or another. Yes.</p> <p>17 BY MR. BENNETT:</p> <p>18 Q. Right. And you -- this is not an area that you</p> <p>19 consider yourself an expert in. That is, you do not</p> <p>20 profess to be an expert in the accuracy or inaccuracy of</p> <p>21 credit reporting, right?</p> <p>22 A. I've described my expertise in my</p> <p>23 qualifications. This set of facts forms the basis for</p> <p>24 my opinion in the case about how consumers would respond</p> <p>25 to disclosures.</p>

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<p style="text-align: right;">Page 70</p> <p>1 Q. Right. But you --</p> <p>2 A. It takes the accuracy of the data that consumers</p> <p>3 quote here and their statements about accuracy as given.</p> <p>4 Q. I'm just asking, you're not an expert in the</p> <p>5 accuracy or inaccuracy of consumer credit reporting,</p> <p>6 right?</p> <p>7 A. I'm not sure what you mean, specifically, by,</p> <p>8 "accuracy or inaccuracy," but I feel comfortable using</p> <p>9 this evidence as a foundation for my opinion.</p> <p>10 Q. And the evidence is the reports that are cited</p> <p>11 in your footnotes, right?</p> <p>12 A. Yes.</p> <p>13 Q. For example, the PERC study that TransUnion and</p> <p>14 its industry colleagues paid for?</p> <p>15 MR. NEWMAN: Objection.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. PERC. You're aware they bought that, right?</p> <p>18 They paid for that?</p> <p>19 MR. NEWMAN: Objection.</p> <p>20 BY MR. BENNETT:</p> <p>21 Q. Let me try it differently. Have you done any</p> <p>22 analysis of the statistical underpinnings of any of the</p> <p>23 studies that you have found and used for this expert</p> <p>24 report?</p> <p>25 A. I don't know what you mean by, "analysis." I've</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. When's the last time that you were in a general</p> <p>2 district court in the state of Virginia, the</p> <p>3 commonwealth of Virginia?</p> <p>4 A. I don't know that I've ever been in one.</p> <p>5 Q. Well, do you consider yourself an expert in</p> <p>6 interpreting the documents from Virginia general</p> <p>7 district courts?</p> <p>8 MR. NEWMAN: Objection.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: I don't know what you mean by</p> <p>11 expert, but this paragraph relies on documents that were</p> <p>12 provided to me as facts of the case, and I relied on</p> <p>13 them as such.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. Well, in the text that precedes footnote 36, you</p> <p>16 write -- or someone wrote, quote, "In addition, it</p> <p>17 appears that on July 26, 2016, the Henrico General</p> <p>18 District Court clerk issued an abstractive judgment</p> <p>19 suggesting that the Court still considers the judgment</p> <p>20 to be valid." And you footnote for that contention,</p> <p>21 simply, the abstractive judgment, Bates number Clark 69</p> <p>22 that TransUnion's lawyer produced in this case. So --</p> <p>23 MR. NEWMAN: Actually, that was produced by your</p> <p>24 office.</p> <p>25 MR. BENNETT: Right. But the statement</p>
<p style="text-align: right;">Page 71</p> <p>1 examined the sources. And if I rely on them in my</p> <p>2 report, I accept them. And I, in quoting from studies</p> <p>3 of consumer reporting agencies, do not rely, for</p> <p>4 example, only on the PERC study; although, in many</p> <p>5 cases, its findings are consistent with those and other</p> <p>6 studies such as the FTC study, from which I quote.</p> <p>7 Q. Sure. Did you or did Dan, the economist, find</p> <p>8 the PERC study?</p> <p>9 A. I can't recall exactly who found it. It may</p> <p>10 have been provided to me by Dan; it may have been</p> <p>11 provided to me in another context. I can't recall</p> <p>12 exactly. I may have found it on my own.</p> <p>13 Q. Did you or Dan, the economist, find the GAL</p> <p>14 report that you cite at footnote 31?</p> <p>15 A. The same answer would apply there. We both</p> <p>16 pursued our research relatively concurrently and shared</p> <p>17 it with each other.</p> <p>18 Q. Well, let's -- if you take a look at page 8 on</p> <p>19 paragraph 20, in here you describe and discuss the</p> <p>20 gentlemen Virginia district court judgment against the</p> <p>21 plaintiff Clark, correct?</p> <p>22 A. Yes.</p> <p>23 Q. When's the last time you were in our wonderful</p> <p>24 state here, Virginia?</p> <p>25 A. I can't recall.</p>	<p style="text-align: right;">Page 73</p> <p>1 suggesting that the Court still considers the judgment</p> <p>2 to be valid was produced by yours.</p> <p>3 BY MR. BENNETT:</p> <p>4 Q. It was produced, Mr. Stango, by Mr. Newman. So</p> <p>5 I'm wondering how you learned that fact -- that</p> <p>6 purported fact that the abstractive judgment somehow</p> <p>7 seems to represent a belief that the judgment is still</p> <p>8 valid.</p> <p>9 MR. NEWMAN: Objection; mischaracterizes</p> <p>10 testimony.</p> <p>11 You can answer the question.</p> <p>12 BY MR. BENNETT:</p> <p>13 Q. Well, who told you that? Who said that it</p> <p>14 suggests that the Court believes the judgment to be</p> <p>15 valid, still considers the judgment to be valid?</p> <p>16 MR. NEWMAN: Objection.</p> <p>17 You can answer.</p> <p>18 BY MR. BENNETT:</p> <p>19 Q. Let me -- let me -- let me be considerate of the</p> <p>20 objection. Has any person either in writing or by</p> <p>21 phone, e-mail or by phone, told you or made a statement</p> <p>22 that it can be inferred because of the existence of that</p> <p>23 abstractive judgment that the Court still considers it</p> <p>24 to be valid?</p> <p>25 MR. NEWMAN: Same objection.</p>

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<p>1 You can answer.</p> <p>2 THE WITNESS: I wouldn't put it this way, but I</p> <p>3 can describe to you how --</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. Before you describe it, answer my question.</p> <p>6 MR. NEWMAN: Hold on. He is answering your</p> <p>7 question.</p> <p>8 MR. BENNETT: No. I want an answer to the</p> <p>9 question because this witness has received a subpoena</p> <p>10 for communications, and this report looks like a lot</p> <p>11 like your brief, Mr. Newman.</p> <p>12 BY MR. BENNETT:</p> <p>13 Q. So you can describe all you want, anything you</p> <p>14 want to describe, but I'm asking you to answer a</p> <p>15 question under oath, under penalty of perjury. Has</p> <p>16 anyone of ever communicated to you, in writing or</p> <p>17 orally, that this abstractive judgment somehow suggests</p> <p>18 that the Court still considers it to be valid?</p> <p>19 MR. NEWMAN: It's a little easier for him to</p> <p>20 answer your questions when you don't interrupt him</p> <p>21 mid-answer.</p> <p>22 But go ahead, please.</p> <p>23 THE WITNESS: As I was saying, relative to this</p> <p>24 particular abstractive judgment, I was provided the</p> <p>25 abstractive judgment as part of the materials I relied</p>	<p>1 do.</p> <p>2 BY MR. BENNETT:</p> <p>3 Q. Do you take your notes in a laptop or on a</p> <p>4 computer or do you do it using a pen or pencil?</p> <p>5 A. It varies.</p> <p>6 Q. You do both?</p> <p>7 A. Yes. Sometimes one, sometimes the other.</p> <p>8 Q. And when you type it on the -- sorry. When you</p> <p>9 type on the computer, you want to make sure that you</p> <p>10 accurately summarize the facts that are being provided</p> <p>11 to you by TransUnion or its lawyers so that you don't</p> <p>12 falsely state any such fact, right?</p> <p>13 MR. NEWMAN: Objection; foundation.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: I have different reasons for</p> <p>16 making notes, but in general, my intention is to</p> <p>17 assemble the facts and evidence and rely on them in</p> <p>18 forming my opinions.</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. Okay. And what -- do you keep one comprehensive</p> <p>21 document, with all the facts that are provided to you by</p> <p>22 TransUnion or its lawyers, or do you open and save a new</p> <p>23 document each time you have such discussion?</p> <p>24 A. I can't offer a general answer to that question.</p> <p>25 I sometimes keep paper copies of documents; I sometimes</p>
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<p>1 upon. I discussed the abstractive judgment; although, I</p> <p>2 don't believe I can go into details with counsel until I</p> <p>3 was comfortable with my understanding of what it meant.</p> <p>4 And that's the understanding that you see in the</p> <p>5 sentence starting, "In addition, it appears that on</p> <p>6 July 26, 2016, the Henrico General District Court," et</p> <p>7 cetera. I'm not a lawyer. I'm not offering a legal</p> <p>8 opinion. I'm merely describing the materials I reviewed</p> <p>9 and what I conclude.</p> <p>10 BY MR. BENNETT:</p> <p>11 Q. Was Dan, the economist, on the phone when you</p> <p>12 had the conversations with either Dan the TransUnion</p> <p>13 lawyer, or Mr. Newman and his colleagues regarding this</p> <p>14 judgment?</p> <p>15 MR. NEWMAN: Regarding the abstractive judgment?</p> <p>16 MR. BENNETT: Yes.</p> <p>17 THE WITNESS: I believe that he was, but I can't</p> <p>18 be 100 percent sure.</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. And do you take notes as well or is it just Dan</p> <p>21 that takes notes in the substance of those</p> <p>22 conversations?</p> <p>23 MR. NEWMAN: Objection; foundation.</p> <p>24 THE WITNESS: When we have calls, sometimes I</p> <p>25 take notes. I can't tell you what Dan does or does not</p>	<p>1 will, as part of the process of formulating my opinions,</p> <p>2 keep electronic copies and make notes --</p> <p>3 Q. I guess --</p> <p>4 A. --in various forms.</p> <p>5 Q. I'm sorry.</p> <p>6 A. I do it different ways.</p> <p>7 Q. Okay. If you turn to page 11, have you made a</p> <p>8 credit dispute yourself?</p> <p>9 A. Not in the recent past. No.</p> <p>10 Q. Have you ever done any primary research on the</p> <p>11 most effective ways to make a credit reporting dispute?</p> <p>12 A. I don't know what you mean by, "the most</p> <p>13 effective ways."</p> <p>14 Q. Well, you --</p> <p>15 A. I describe the various processes through which</p> <p>16 disputes are submitted and resolved in my report.</p> <p>17 Q. I understand that. Have you ever read the</p> <p>18 National Consumer Law Center treatise on fair credit</p> <p>19 reporting?</p> <p>20 A. Without having that document in front of me, I</p> <p>21 can't say. And if I relied on that, it's cited in my</p> <p>22 report. If I -- it's not cited in my report, I didn't</p> <p>23 rely on it in forming my opinions.</p> <p>24 Q. So there's a section in there on the most</p> <p>25 effective ways to make disputes and why certain methods</p>

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<p style="text-align: right;">Page 78</p> <p>1 like this online nonsense are strongly discouraged by</p> <p>2 consumer advocates. Have you done any research as to</p> <p>3 the recommended method of disputing information, the --</p> <p>4 the method that is recommended by consumer advocates?</p> <p>5 MR. NEWMAN: Objection; foundation; and object</p> <p>6 to the characterization of the source counsel cited.</p> <p>7 But you can answer the question.</p> <p>8 BY MR. BENNETT:</p> <p>9 Q. Well --</p> <p>10 A. I haven't seen, as far as I can recall and I</p> <p>11 don't have in front of me the study you reference, I</p> <p>12 can't say that I am familiar with the recommendations of</p> <p>13 every consumer advocate about what or might not or might</p> <p>14 be the most effective way. And furthermore, I'm not</p> <p>15 sure what effective would mean in that context.</p> <p>16 Q. Well -- so do you have any idea what happens if</p> <p>17 a consumer makes the dispute in the way TransUnion</p> <p>18 recommends and you cite on page 12 by going to its</p> <p>19 online website? Do you know the process of what</p> <p>20 happens, somebody makes a dispute on TransUnion's</p> <p>21 website?</p> <p>22 A. I believe I know some things about the process,</p> <p>23 and I describe them in my report.</p> <p>24 Q. What do you think happened if somebody goes to</p> <p>25 TransUnion.com/dispute online? What do you think</p>	<p style="text-align: right;">Page 80</p> <p>1 the employee dispute department at TransUnion?</p> <p>2 A. I don't know.</p> <p>3 Q. I'll give you a hint. It's not called dispute</p> <p>4 department. Do you not know? That's okay to not know</p> <p>5 something. Do you not know that?</p> <p>6 A. It may be described in my report as a reference,</p> <p>7 but understanding what the dispute department at</p> <p>8 TransUnion is called is not the focus of my study, so I</p> <p>9 didn't devote particular attention to remembering it for</p> <p>10 this deposition.</p> <p>11 Q. So if a consumer makes a dispute through the</p> <p>12 online website of a judgment, does any employee -- any</p> <p>13 human being at TransUnion see the dispute and -- and the</p> <p>14 TransUnion is following its primary and ordinary</p> <p>15 process?</p> <p>16 MR. NEWMAN: Objection; the question is vague.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: I described the process, as I</p> <p>19 understand it, in my report. Understanding those</p> <p>20 details of how the dispute information is conveyed is</p> <p>21 described at the level I found necessary to form my</p> <p>22 opinions in my report.</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. Well, then, why did you include them in your</p> <p>25 report? The information that you can't recall today,</p>
<p style="text-align: right;">Page 79</p> <p>1 happens?</p> <p>2 A. I describe what I know about the dispute process</p> <p>3 in my report.</p> <p>4 Q. I'm asking if they make a dispute online, what</p> <p>5 do you think happens?</p> <p>6 MR. NEWMAN: Objection; asked and answered.</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. If you don't know, that's okay.</p> <p>9 MR. NEWMAN: Objection; asked and answered.</p> <p>10 BY MR. BENNETT:</p> <p>11 Q. Not everybody's an expert.</p> <p>12 MR. NEWMAN: Objection; argumentative.</p> <p>13 THE WITNESS: I describe what I know about the</p> <p>14 dispute process and how it proceeds in my report.</p> <p>15 BY MR. BENNETT:</p> <p>16 Q. What do you know about the way that TransUnion</p> <p>17 handles a consumer's dispute made through its online</p> <p>18 website?</p> <p>19 MR. NEWMAN: Objection; asked and answered.</p> <p>20 THE WITNESS: I'm not sure what you mean by,</p> <p>21 "handles by," but I describe in my report dispute</p> <p>22 resolution and how different disputes may be resolved in</p> <p>23 different ways from the consumer's perspective.</p> <p>24 BY MR. BENNETT:</p> <p>25 Q. So what's the name of the dispute department,</p>	<p style="text-align: right;">Page 81</p> <p>1 explaining how when you wrote the report, what, a month</p> <p>2 or so ago, you somehow knew TransUnion conducted</p> <p>3 disputes?</p> <p>4 MR. NEWMAN: Objection; misstates testimony. I</p> <p>5 don't think there's a question there anyway. What's the</p> <p>6 question?</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. What -- what -- how about this, do you know --</p> <p>9 have you ever known in your lifetime the specific</p> <p>10 procedure that TransUnion follows when a consumer makes</p> <p>11 a dispute to it on its website?</p> <p>12 MR. NEWMAN: Objection; asked and answered.</p> <p>13 You can go ahead.</p> <p>14 THE WITNESS: When TransUnion receives a</p> <p>15 dispute, it can process that dispute in any number of</p> <p>16 ways. Sometimes the dispute leads to deletion of the</p> <p>17 disputed record; sometimes the dispute is referred to</p> <p>18 LexisNexis even when the dispute --</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. How about --</p> <p>21 MR. NEWMAN: Hold on.</p> <p>22 THE WITNESS: -- is handled internally. It can</p> <p>23 be resolved any number of different ways that I describe</p> <p>24 in my report.</p> <p>25 //</p>

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<p>1 BY MR. BENNETT:</p> <p>2 Q. Those are outcomes. I'm asking you what</p> <p>3 happens, mechanically, procedurally, when a consumer</p> <p>4 makes a dispute to TransUnion, and you won't even say, I</p> <p>5 don't know, right? You won't, today, here, say, I don't</p> <p>6 know what TransUnion does internally when a consumer</p> <p>7 makes a dispute, correct?</p> <p>8 MR. NEWMAN: Mr. Bennett, that's -- that's a</p> <p>9 speech, not a question. What's the question?</p> <p>10 BY MR. BENNETT:</p> <p>11 Q. No. I'm asking you. Will you agree that you do</p> <p>12 not have knowledge as to what TransUnion does internally</p> <p>13 when a consumer makes a dispute?</p> <p>14 MR. NEWMAN: Objection; vague; asked and</p> <p>15 answered.</p> <p>16 You can -- you can go ahead.</p> <p>17 THE WITNESS: I disagree with your</p> <p>18 characterization of things. I do know what TransUnion</p> <p>19 does in the sense that I found important for forming my</p> <p>20 opinions. I understand, for example, that sometimes</p> <p>21 they resolve disputes internally and sometimes they send</p> <p>22 them to LexisNexis. I understand that they attach</p> <p>23 different codes to different disputes, and I understand</p> <p>24 that the dispute process can evolve in different ways</p> <p>25 for different consumers. That diversity in consumer</p>	<p>1 Go ahead.</p> <p>2 BY MR. BENNETT:</p> <p>3 Q. Well, let me ask you this: What -- if a</p> <p>4 consumer makes a dispute online, does any TransUnion</p> <p>5 employee -- in the dispute of the accuracy of a public</p> <p>6 record trade line, does any TransUnion employee, if</p> <p>7 TransUnion follows its ordinary procedures, ever look at</p> <p>8 the consumer's dispute ever?</p> <p>9 MR. NEWMAN: Objection.</p> <p>10 You can answer.</p> <p>11 BY MR. BENNETT:</p> <p>12 Q. Do you know?</p> <p>13 A. I don't know for sure, and I don't think that</p> <p>14 knowing one way or the other would change any of the</p> <p>15 conclusions in my report, which is why I'm telling you</p> <p>16 that right now.</p> <p>17 Q. Okay. So do you know what country -- in what</p> <p>18 country the human beings that can consider some of</p> <p>19 TransUnion's disputes that are mailed reside?</p> <p>20 MR. NEWMAN: Objection; relevance.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: I --</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. How about continents? Do you know what</p> <p>25 continent TransUnion's dispute agents reside? Do you</p>
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<p>1 behavior is the information that diversity in handling</p> <p>2 disputes based on outcomes is the information I felt</p> <p>3 would be useful to me in formulating my opinions.</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. Right.</p> <p>6 A. I won't claim to be an expert on the underlying</p> <p>7 details of every aspect of TransUnion's business</p> <p>8 processes. And if that's what you're asking me, no, I'm</p> <p>9 not an expert on all of those details.</p> <p>10 Q. I'm not asking you that. We know that. I'm</p> <p>11 asking you whether you have any knowledge, knowledge</p> <p>12 greater than 0.0, as to what TransUnion actually does</p> <p>13 internally when a consumer makes a dispute. And I'm</p> <p>14 just right now on the online part of it.</p> <p>15 MR. NEWMAN: Object --</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. And you won't admit it, right, that you have no</p> <p>18 knowledge as to, mechanically, what happens internally</p> <p>19 at TransUnion --</p> <p>20 MR. NEWMAN: Objection --</p> <p>21 BY MR. BENNETT:</p> <p>22 Q. -- when a consumer makes a dispute online,</p> <p>23 right?</p> <p>24 MR. NEWMAN: Objection; argumentative; asked and</p> <p>25 answered.</p>	<p>1 have any knowledge of that?</p> <p>2 MR. NEWMAN: Objection; relevance.</p> <p>3 THE WITNESS: I'm sorry. I was about to answer</p> <p>4 the question. I've seen reference in some of the</p> <p>5 documents that I've reviewed to names of countries in</p> <p>6 which some of these things may be handled. But again,</p> <p>7 understanding those details was something that I did not</p> <p>8 pursue because I do not see it as information that would</p> <p>9 affect, in any way, the conclusions I reached in my</p> <p>10 report, which are about consumer behavior as it pertains</p> <p>11 to the disclosure at issue.</p> <p>12 BY MR. BENNETT:</p> <p>13 Q. What -- okay. So you agree with me that you do</p> <p>14 not have knowledge as to how TransUnion internally</p> <p>15 processes consumer disputes beyond the words that you or</p> <p>16 someone has typed into your report, right?</p> <p>17 MR. NEWMAN: Objection; argumentative; asked and</p> <p>18 answered.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: I've described what happens. The</p> <p>21 disputes can be handled internally; the information can</p> <p>22 be removed from the report; it can be changed; it can</p> <p>23 remain on the report; the dispute can be sent to</p> <p>24 LexisNexis; LexisNexis can send the dispute back; other</p> <p>25 things can happen from the perspective of the consumer</p>

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<p style="text-align: right;">Page 86</p> <p>1 and how the consumer pursues the dispute process. And</p> <p>2 so, those are the things that I describe. That is the</p> <p>3 knowledge I have that I used in formulating my opinions</p> <p>4 in this case.</p> <p>5 BY MR. BENNETT:</p> <p>6 Q. How much money does TransUnion have to pay</p> <p>7 LexisNexis if it forwards a dispute to LexisNexis?</p> <p>8 MR. NEWMAN: Objection.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: Again, although I may have seen</p> <p>11 reference to such a figure, I didn't consider that</p> <p>12 figure in formulating my opinion, which was about</p> <p>13 consumer behavior.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. So what rights does a consumer have against</p> <p>16 LexisNexis if LexisNexis inaccurately or incompletely</p> <p>17 furnishes a public record regarding that consumer to</p> <p>18 TransUnion?</p> <p>19 A. If you're talking about legal rights, I can't</p> <p>20 answer the question because I'm not a lawyer.</p> <p>21 Q. Who is -- who is Kimberly Bye and what is this</p> <p>22 declaration you cite in your footnotes, for example, at</p> <p>23 page 14?</p> <p>24 A. Kimberly Bye is an employee of TransUnion.</p> <p>25 MR. NEWMAN: And that document was produced in</p>	<p style="text-align: right;">Page 88</p> <p>1 Dennis case, and then it was reproduced in this case.</p> <p>2 And as you know, a lot of materials that were originally</p> <p>3 produced in the Dennis case, also were produced in this</p> <p>4 case. But it was first prepared in the Dennis case and</p> <p>5 produced in that case.</p> <p>6 MR. BENNETT: And that's a good point.</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. Mr. Stango, you also provided an expert</p> <p>9 report -- purported expert report in the Dennis versus</p> <p>10 TransUnion case, right?</p> <p>11 MR. NEWMAN: You -- you can you can answer that</p> <p>12 question and you can -- I'll permit some limited</p> <p>13 questioning about the nature of your engagement in that</p> <p>14 case, but the witness has not been prepared on the</p> <p>15 details of Ms. Dennis and he hasn't been cross-noticed</p> <p>16 in that that case. So at some point, I will cut off</p> <p>17 questioning about the Dennis case.</p> <p>18 But go ahead, you can answer.</p> <p>19 THE WITNESS: Yes. I prepared a report.</p> <p>20 BY MR. BENNETT:</p> <p>21 Q. And what are the facts that you understand</p> <p>22 regarding the plaintiff Dennis in that case?</p> <p>23 MR. NEWMAN: Yeah. I'm -- I'm going to object</p> <p>24 to that questioning. Because the -- you know, this was</p> <p>25 not noticed for deposition in the Dennis case. His</p>
<p style="text-align: right;">Page 87</p> <p>1 the case.</p> <p>2 MR. BENNETT: In this case --</p> <p>3 MR. NEWMAN: Yes.</p> <p>4 MR. BENNETT: -- or in the Dennis case?</p> <p>5 MR. NEWMAN: It was produced in Dennis, and it</p> <p>6 was also produced in this case.</p> <p>7 MR. BENNETT: All right. Can you, then, make</p> <p>8 sure that you produce it to my firm?</p> <p>9 MR. NEWMAN: No. It has been produced. I mean,</p> <p>10 it's -- it's -- I mean, I -- if -- if you don't have a</p> <p>11 copy in your office, we'll be sure to have another copy</p> <p>12 sent to your office.</p> <p>13 MR. BENNETT: No. I'm saying it hasn't been</p> <p>14 produced to my office --</p> <p>15 MR. NEWMAN: No. It was --</p> <p>16 MR. BENNETT: -- I'm not saying I don't have a</p> <p>17 copy --</p> <p>18 MR. NEWMAN: No. It was produced in this -- in</p> <p>19 this litigation. So if -- if we've sent to your</p> <p>20 co-counsel and not to you in error, we'll -- we'll</p> <p>21 address that.</p> <p>22 MR. BENNETT: All right. So -- and is this a</p> <p>23 declaration that was issued in Dennis and then produced</p> <p>24 in this case?</p> <p>25 MR. NEWMAN: So it was initially produced in the</p>	<p style="text-align: right;">Page 89</p> <p>1 understanding is set forth in the report he submitted in</p> <p>2 the Dennis case, but he has not been prepared on the</p> <p>3 detail of Ms. Dennis' circumstances. So I'm not</p> <p>4 comfortable allowing that questioning.</p> <p>5 MR. BENNETT: So you're instructing the witness</p> <p>6 not to answer about any facts regarding the Dennis case?</p> <p>7 MR. NEWMAN: Well, do you feel that you are</p> <p>8 sufficiently familiar with the facts of Ms. Dennis'</p> <p>9 circumstances to respond meaningfully to questions</p> <p>10 today?</p> <p>11 THE WITNESS: No. I focused my attention and</p> <p>12 preparation for this deposition entirely on the Clark</p> <p>13 case because I understood that was to be the subject of</p> <p>14 the deposition.</p> <p>15 BY MR. BENNETT:</p> <p>16 Q. Well, what was different about your -- what</p> <p>17 different opinions did you render -- I'm not going to</p> <p>18 ask you about the differences in facts, but what</p> <p>19 different opinions, if any, did you render in Dennis</p> <p>20 versus this case?</p> <p>21 MR. NEWMAN: Objection; the two reports speak</p> <p>22 for themselves, and they can be compared --</p> <p>23 MR. BENNETT: I'm not trying to --</p> <p>24 MR. NEWMAN: -- but he can answer -- I'm not --</p> <p>25 he can answer the question to the extent he's able.</p>

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<p style="text-align: right;">Page 90</p> <p>1 THE WITNESS: I can't recall the specifics of</p> <p>2 the opinions word by word in that case and how, if at</p> <p>3 all, they would have differed from the opinions in this</p> <p>4 case. The cases are different, the named plaintiffs</p> <p>5 were different, and the reports were different.</p> <p>6 BY MR. BENNETT:</p> <p>7 Q. If you could take a look at page 16, paragraph</p> <p>8 45, you say, in part, in that first sentence, you refer</p> <p>9 to something called the, "Concrete economic injury." Do</p> <p>10 you see that?</p> <p>11 A. Yes.</p> <p>12 Q. I don't know what that means. Where did you get</p> <p>13 that? Have you ever heard that phrase before? I've</p> <p>14 never heard that phrase before, "Concrete economic</p> <p>15 injury." It's not a legal term, so I'm wondering if</p> <p>16 it's something in your trade.</p> <p>17 MR. NEWMAN: Objection; the question is vague.</p> <p>18 THE WITNESS: It's the term --</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. Well, you --</p> <p>21 A. -- that I thought properly characterized this</p> <p>22 component of what I understood the theory of injury to</p> <p>23 be, and I describe that theory and all the steps</p> <p>24 involved. And I use the word "concrete" to refer to the</p> <p>25 part of the allegation that read, and I quote, "Credit</p>	<p style="text-align: right;">Page 92</p> <p>1 MR. NEWMAN: Objection; foundation.</p> <p>2 THE WITNESS: If Congress did or did not define</p> <p>3 a legal meaning of harm, I can't nor would I be</p> <p>4 qualified to offer an opinion on it. My research -- my</p> <p>5 background research in this case focused on my expertise</p> <p>6 in economics and consumer behavior and --</p> <p>7 BY MR. BENNETT:</p> <p>8 Q. And so, if Congress determines that consumers</p> <p>9 who suffered this violation -- if Congress determined</p> <p>10 and concluded that consumers who suffered this violation</p> <p>11 suffered concrete injury, you would disagree with</p> <p>12 Congress' conclusion, right?</p> <p>13 MR. NEWMAN: Objection; foundation; incomplete</p> <p>14 hypothetical.</p> <p>15 THE WITNESS: I'm not sure what you mean by what</p> <p>16 Congress determining. I'm focusing my attention on the</p> <p>17 specifics of this case, and I'm focusing my attention on</p> <p>18 the issues of uniformity or diversity in any damages</p> <p>19 that would have been suffered in assessing whether the</p> <p>20 damages alleged by Ms. Clark would have existed</p> <p>21 throughout the putative class. I conclude that they</p> <p>22 would not have.</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. Yeah. I -- I understand that your position</p> <p>25 is -- I understand your position. Would it be a correct</p>
<p style="text-align: right;">Page 91</p> <p>1 damage, higher interest rates, damage to reputation, and</p> <p>2 so on." That is what I mean by, "concrete."</p> <p>3 Q. You know we're not seeking actual damages</p> <p>4 regarding the claim that you're opining about, right?</p> <p>5 You ever heard the phrase "actual damages"?</p> <p>6 MR. NEWMAN: Objection.</p> <p>7 You can answer.</p> <p>8 THE WITNESS: I've seen the term, but I'm not a</p> <p>9 lawyer. And if it has a specific legal meaning, I can't</p> <p>10 say much more than that about it.</p> <p>11 BY MR. BENNETT:</p> <p>12 Q. Right. Have you done any research, legal or</p> <p>13 nonlegal research, to determine what Congress has</p> <p>14 determined as to a consumer's harm or risk of harm by</p> <p>15 the failure to comply with this source of information</p> <p>16 requirement?</p> <p>17 MR. NEWMAN: Objection; question is vague.</p> <p>18 THE WITNESS: I'd like to hear the question</p> <p>19 again.</p> <p>20 MR. NEWMAN: Calls for legal conclusion.</p> <p>21 BY MR. BENNETT:</p> <p>22 Q. Sure. Have you done any research to determine</p> <p>23 what harm or risk of harm Congress determined when a</p> <p>24 consumer would suffer when this source of information</p> <p>25 requirement was violated?</p>	<p style="text-align: right;">Page 93</p> <p>1 summary of your position that you conclude that the</p> <p>2 amount and degree of damages suffered by individual</p> <p>3 consumers based on whether TransUnion violated the</p> <p>4 source of information provision will vary?</p> <p>5 A. Can I hear the question again, please?</p> <p>6 (Whereupon the previous question was read.)</p> <p>7 THE WITNESS: So I don't focus on violation of</p> <p>8 any source of information provision because, as I say in</p> <p>9 my report, I understand that those are legal questions,</p> <p>10 about which I'm not qualified to offer an opinion. What</p> <p>11 I do say in my report is that if one asks the question</p> <p>12 would all consumers in this putative class have been</p> <p>13 injured in the way described by Ms. Dennis, the answer</p> <p>14 is no.</p> <p>15 MR. NEWMAN: Ms. Clark. You said Dennis.</p> <p>16 THE WITNESS: Ms. Clark. I'm sorry. We were</p> <p>17 talking about Ms. Dennis. And furthermore --</p> <p>18 BY MR. BENNETT:</p> <p>19 Q. They're all the same, I know.</p> <p>20 MR. NEWMAN: But they're not. That's why we're</p> <p>21 here. They're all different.</p> <p>22 Sorry. Go ahead.</p> <p>23 THE WITNESS: The conclusion that I reach is</p> <p>24 that one cannot conclude, based on the evidence I've</p> <p>25 seen, that such damages, were they to exist, would have</p>

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<p style="text-align: right;">Page 94</p> <p>1 been averted were LexisNexis to have disclosed or</p> <p>2 TransUnion, excuse me, to disclose LexisNexis as a</p> <p>3 source of public records.</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. Thank you. Can you turn to page 19 of your</p> <p>6 report, please? Or actually, before we turn to 19,</p> <p>7 let's -- let's start with 18. Your position is that</p> <p>8 some consumers would not benefit from knowing that</p> <p>9 LexisNexis was the -- the company that provided the</p> <p>10 information, the -- the court or public record</p> <p>11 information to TransUnion, right?</p> <p>12 A. What I discuss in my --</p> <p>13 Q. Let me -- Mr. Stango, everything I say is not a</p> <p>14 trick.</p> <p>15 MR. NEWMAN: He's trying to --</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. Everything I say is not a trick.</p> <p>18 MR. NEWMAN: He's trying to answer your</p> <p>19 question.</p> <p>20 BY MR. BENNETT:</p> <p>21 Q. Everything I say is not a trick. Okay?</p> <p>22 MR. NEWMAN: Maybe you can tell us which of the</p> <p>23 things you say are tricks and which aren't tricks before</p> <p>24 each question.</p> <p>25 MR. BENNETT: Yes. Well, maybe you shouldn't</p>	<p style="text-align: right;">Page 96</p> <p>1 require individual inquiry of consumers and it would</p> <p>2 also require confronting consumers with an actual</p> <p>3 alternative disclosure and assessing how they would</p> <p>4 respond.</p> <p>5 Q. So let me try again. Yes or no, would some</p> <p>6 consumers benefit from knowing that LexisNexis was the</p> <p>7 intermediary or the entity that provided the public</p> <p>8 records information to TransUnion?</p> <p>9 MR. NEWMAN: Objection; asked and answered.</p> <p>10 Go ahead.</p> <p>11 MR. BENNETT: No, it was not.</p> <p>12 THE WITNESS: As I've described, I cannot give a</p> <p>13 yes-or-no answer to that question because answering it</p> <p>14 would require confronting consumers with an actual</p> <p>15 alternative disclosure and asking those individual</p> <p>16 consumers what they thought, as is the case in the</p> <p>17 methodology pursued in the government studies of</p> <p>18 disclosures that I referred to in my report.</p> <p>19 BY MR. BENNETT:</p> <p>20 Q. So yes, no, or you don't know the answer, three</p> <p>21 options: A, yes; B, no; C, you don't know the answer.</p> <p>22 MR. NEWMAN: Objection; asked and answered.</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. Is the number of consumers who would benefit</p> <p>25 from knowing of LexisNexis' involvement greater than</p>
<p style="text-align: right;">Page 95</p> <p>1 have coached the witness to argue with every single</p> <p>2 question.</p> <p>3 MR. NEWMAN: He is -- he is doing his best to</p> <p>4 answer your questions and you should let him answer your</p> <p>5 questions.</p> <p>6 MR. BENNETT: He's not answering the questions.</p> <p>7 He is talking about matters that he wants to talk about,</p> <p>8 filibustering rather than answering the question.</p> <p>9 MR. NEWMAN: Well, I disagree.</p> <p>10 BY MR. BENNETT:</p> <p>11 Q. Let me -- let me try it again. I'm trying to</p> <p>12 start these -- the premise questions I'm trying to make</p> <p>13 uncontroversial.</p> <p>14 Now, yes or no, would some consumers benefit</p> <p>15 from having knowledge that LexisNexis provided the</p> <p>16 public record information to TransUnion?</p> <p>17 A. My report focuses on the question of whether</p> <p>18 TransUnion disclosed LexisNexis as a source rather than</p> <p>19 consumer knowledge. What I say in my report is that</p> <p>20 there will be some consumers who's situation would</p> <p>21 necessarily be unchanged were LexisNexis to have been</p> <p>22 disclosed. There would be some consumers who would be</p> <p>23 worse off, and I will grant the possibility that some</p> <p>24 consumers may have benefitted, but I view that as</p> <p>25 unlikely and impossible to evaluate because it would</p>	<p style="text-align: right;">Page 97</p> <p>1 zero?</p> <p>2 MR. NEWMAN: Objection; asked and answered;</p> <p>3 argumentative.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: I can only answer that question,</p> <p>6 as I describe in my report, by confronting consumers</p> <p>7 with such an alternative disclosure and conducting an</p> <p>8 individual level of inquiry assessing their responses to</p> <p>9 that disclosure, their interpretations of that</p> <p>10 disclosure, which as I described, would be diverse as</p> <p>11 they are in study after study that I referred to in my</p> <p>12 report. I cannot give --</p> <p>13 BY MR. BENNETT:</p> <p>14 Q. Well, no. That's overstated. You don't refer</p> <p>15 to a single study.</p> <p>16 MR. NEWMAN: I don't -- I don't think he's</p> <p>17 finished his response.</p> <p>18 MR. BENNETT: No. All right. Let's take five</p> <p>19 minutes and then let's meet and confer because I'm going</p> <p>20 to move to compel this witness to answer testimony in</p> <p>21 Richmond, Virginia, which is not so bad this time a</p> <p>22 year. Let's take five minutes.</p> <p>23 MR. NEWMAN: Sure.</p> <p>24 THE VIDEOGRAPHER: Okay. We're off the record</p> <p>25 at 2:04.</p>

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<p style="text-align: right;">Page 98</p> <p>1 (A recess was held from 2:04 p.m. to 2:14 p.m.)</p> <p>2 THE VIDEOGRAPHER: We're back on the record at</p> <p>3 2:14.</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. I want to go to page 19 of your report, and you</p> <p>6 have an italicized -- right in the middle of the page,</p> <p>7 an italicized phrase, "Plaintiff's hypothetical</p> <p>8 alternative disclosure." What is that?</p> <p>9 A. As I described in my report, I don't know quite</p> <p>10 what it is. It's described as a disclosure that lists</p> <p>11 LexisNexis as a source of public records, but I didn't</p> <p>12 see anywhere specifics such as whether that listing</p> <p>13 would supplement or supplant TransUnion as a -- or</p> <p>14 excuse me -- or the courthouse as sources, nor did I see</p> <p>15 anywhere information specifying whether this disclosure</p> <p>16 would continue to direct consumers to report to</p> <p>17 TransUnion any disputes they have. Those are two</p> <p>18 examples of why I call it a hypothetical alternative</p> <p>19 disclosure rather than an actual one. I haven't seen</p> <p>20 it.</p> <p>21 Q. I hadn't either. I just assumed you had talked</p> <p>22 to some other plaintiff and thought of one. So would</p> <p>23 your opinion hold true if there was a plaintiff's</p> <p>24 hypothetical alternative disclosure that said or that</p> <p>25 disclosed to the consumer the Court information in full,</p>	<p style="text-align: right;">Page 100</p> <p>1 Sue didn't. I'm asking you, in your opinion, whether or</p> <p>2 not you will even agree that some number of consumers</p> <p>3 greater than zero would benefit from that knowledge that</p> <p>4 there was this other company that was involved in</p> <p>5 reporting public records information to TransUnion.</p> <p>6 MR. NEWMAN: Objection; argumentative; asked and</p> <p>7 answered.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: I believe I've said this before,</p> <p>10 but I cannot answer a question about such a hypothetical</p> <p>11 alternative disclosure and any concrete affect it would</p> <p>12 have on consumers based on the evidence that I have</p> <p>13 seen. What I do conclude, from my report, is that many</p> <p>14 consumers could not have had such harm averted because</p> <p>15 they didn't suffer such harm in the first place.</p> <p>16 BY MR. BENNETT:</p> <p>17 Q. Well --</p> <p>18 A. And as to whether --</p> <p>19 Q. Again --</p> <p>20 A. -- there may be some consumers who would benefit</p> <p>21 in a hypothetical world, I've granted that possibility</p> <p>22 before, and I'll grant it again, but that doesn't change</p> <p>23 any of the opinions in my report.</p> <p>24 Q. So for that granted consumer or group of</p> <p>25 consumers of whatever size, those, you would -- you</p>
<p style="text-align: right;">Page 99</p> <p>1 that's the way that it's done now, and included a</p> <p>2 phrase, "This Court information was reported to</p> <p>3 TransUnion by LexisNexis," and gave that LexisNexis</p> <p>4 telephone number?</p> <p>5 MR. NEWMAN: Objection; incomplete hypothetical.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: I can't answer any question about</p> <p>8 how my opinions would change when confronted with new</p> <p>9 information that I haven't seen yet such as an</p> <p>10 alternative disclosure like the one you describe.</p> <p>11 Furthermore, as I state in my report, any conclusion</p> <p>12 about the effect of such a disclosure on consumers would</p> <p>13 necessitate individual level inquiry of those consumers</p> <p>14 and perhaps other parties as well.</p> <p>15 BY MR. BENNETT:</p> <p>16 Q. So again, I've tried this before. I'm just</p> <p>17 amazed -- I just have to ask again. Are you willing</p> <p>18 to -- to admit and to say that -- in your opinion, that</p> <p>19 some consumers would be helped from the additional</p> <p>20 knowledge that LexisNexis provided the Court information</p> <p>21 to TransUnion?</p> <p>22 MR. NEWMAN: Objection; asked and answered.</p> <p>23 BY MR. BENNETT:</p> <p>24 Q. I mean, any -- any at all. I'm not asking you</p> <p>25 whether you can identify whether John Smith did and Mary</p>	<p style="text-align: right;">Page 101</p> <p>1 would agree that those individuals would suffer harm of</p> <p>2 some disputed magnitude but some degree of harm greater</p> <p>3 than zero when they are not provided the information</p> <p>4 that identifies LexisNexis as a source of information?</p> <p>5 MR. NEWMAN: Objection; incomplete hypothetical;</p> <p>6 misstates testimony.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: I've granted that some such</p> <p>9 consumers could exist in a hypothetical world. I have</p> <p>10 not concluded that some consumers of that kind would</p> <p>11 exist. Because as I said in my report, the impact of</p> <p>12 any alternative disclosure could only be learned via</p> <p>13 individual inquiry of consumers facing that disclosure.</p> <p>14 BY MR. BENNETT:</p> <p>15 Q. All right. But I'm not asking you to identify</p> <p>16 which consumer suffered which -- whether one particular</p> <p>17 consumer suffered harm versus another, nor am I asking</p> <p>18 you whether 1 percent, 50 percent, or any particular</p> <p>19 percent suffered such harm, nor am I asking you the</p> <p>20 magnitude of the harm. Other than was -- can you agree</p> <p>21 or grant that there are at least some consumers amongst</p> <p>22 the hundreds of thousands or millions who in the</p> <p>23 putative class would have been harmed by not being told</p> <p>24 that LexisNexis was a source of the public records</p> <p>25 information?</p>

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<p style="text-align: right;">Page 102</p> <p>1 MR. NEWMAN: Objection; asked and answered; 2 incomplete hypothetical. 3 Go ahead. 4 THE WITNESS: I believe I've stated this 5 already. I've granted that in an alternative 6 hypothetical world something could be possible. I have 7 not agreed to any statement that I would believe that 8 such consumers do or would exist, and I could only 9 answer that question based on the argument I lay out in 10 my report. I can't answer the question any other way. 11 BY MR. BENNETT: 12 Q. So can you then -- let's try it the other way. 13 Do you agree with the statement that no consumer 14 suffered harm by TransUnion's omission of LexisNexis as 15 a source of information in the consumer file 16 disclosures? 17 MR. NEWMAN: Objection; incomplete hypothetical. 18 Go ahead. 19 THE WITNESS: I'd like to hear the question 20 again. 21 (Whereupon the previous question was read.) 22 THE WITNESS: In that context, again, I am not 23 making a definitive statement about what any consumers 24 in the class would or would not have suffered. What I 25 do state in my report is that taking the theory and</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. BENNETT: 2 Q. Who wrote it? 3 A. I did. 4 Q. Okay. And you footnote in here -- well, how 5 about this, why don't you -- why don't you explain to me 6 the point you're trying to make in paragraph 75? 7 A. This section of the report details heterogeneity 8 in how information that is in or not in a file may 9 affect things like consumer credit scores reported by 10 the CRAs to third parties. One dimension of that is 11 this point about scorability of a file. In some cases, 12 as I understand things, a file lacks sufficient 13 information for generation of a score. This study that 14 I quote states that removing a public record can change 15 a file from scorable to unscorable. 16 Q. I thought -- what study did you cite? 17 A. The study that I cite is listed in footnote 121. 18 I know it as the VantageScore Study. 19 Q. Who -- who performed that study? 20 A. I can't recall every detail of the study, but as 21 I read the sentence in front of me, it says that the 22 2016 study was by VantageScore and it names VantageScore 23 in the footnote referring to the study. I can't tell 24 you more than that sitting right in front, right here. 25 Q. So do you know who owns VantageScore? And here,</p>
<p style="text-align: right;">Page 103</p> <p>1 facts of Ms. Clark on their face, there indeed would be 2 many consumers in the putative class who did not suffer 3 such harm, such as those without errors on their credit 4 files. 5 BY MR. BENNETT: 6 Q. Well, you agree that there is a risk that some 7 consumers could suffer harm greater than zero, right? 8 MR. NEWMAN: Objection; incomplete hypothetical; 9 vague and ambiguous. 10 Go ahead. 11 THE WITNESS: I'm not sure what you mean by, 12 "suffer harm." From what circumstances or in what way? 13 BY MR. BENNETT: 14 Q. So could you turn to page 25? 15 MR. NEWMAN: 25, Len? 16 MR. BENNETT: Yes. 17 BY MR. BENNETT: 18 Q. Paragraph 75, are you familiar with that or do 19 you need to read it? 20 MR. NEWMAN: Well, I'd like to read it, Len. 21 MR. BENNETT: I'm sorry? 22 MR. NEWMAN: I'd like to read it before you ask 23 your question. I've read it. 24 THE WITNESS: I see the paragraph in front of 25 me.</p>	<p style="text-align: right;">Page 105</p> <p>1 I'll give you a clue. Who owns the three parts of 2 VantageScore? 3 A. I don't know. 4 Q. Who are the big three owners of VantageScore? 5 Does that help you? 6 A. I don't know who the owners of VantageScore are. 7 Q. Okay. Are you aware -- no. I'm sorry. You are 8 aware. 9 You are aware from your Dennis case and this 10 case, of course, that TransUnion is being sued regarding 11 its public record reporting, right? 12 A. I describe the allegations in this case. They 13 involve TransUnion's reporting of public record sources 14 and whether or not they listed LexisNexis as such as a 15 source. So to that extent -- 16 Q. I know you're getting \$950 an hour from 17 TransUnion here, but I'd ask you to suspend that 18 knowledge using a veil of ignorance. You know, theory 19 of justice, relevant ignorance, pretend you weren't 20 getting paid by TransUnion. 21 If you as an associate professor were 22 peer-reviewing research regarding the proper method of 23 credit reporting, and you learned that the study you 24 were reviewing was 100 percent paid for by TransUnion, 25 Equifax, and Experian and were 100 percent conducted by</p>

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<p style="text-align: right;">Page 106</p> <p>1 TransUnion, Equifax, and Experian employees, that would</p> <p>2 be relevant to your knowledge, right --</p> <p>3 MR. NEWMAN: Objection --</p> <p>4 BY MR. BENNETT:</p> <p>5 Q. -- your opinion of the reliability of that study</p> <p>6 you were peer-reviewing?</p> <p>7 MR. NEWMAN: Objection; argumentative;</p> <p>8 relevance.</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: None of the conclusions I reach</p> <p>11 here are contingent on the fact that I am being paid by</p> <p>12 TransUnion in this case.</p> <p>13 BY MR. BENNETT:</p> <p>14 Q. Well, paragraph 75 makes the argument -- whoever</p> <p>15 wrote it is making the argument that it's better to have</p> <p>16 an -- for some consumers -- an inaccurate judgment,</p> <p>17 lien, or bankruptcy -- that is, a judgment, lien, or</p> <p>18 bankruptcy incorrectly attributed to that consumer in</p> <p>19 some consumer credit reports because that will help them</p> <p>20 get a VantageScore scored credit score.</p> <p>21 Your opinion in that regard is dependent upon</p> <p>22 your review of the VantageScore study, right?</p> <p>23 MR. NEWMAN: Objection; mischaracterizes</p> <p>24 testimony.</p> <p>25 Go ahead.</p>	<p style="text-align: right;">Page 108</p> <p>1 record and whether the file is scorable.</p> <p>2 MR. BENNETT: I don't -- I don't have any other</p> <p>3 questions this -- for this moment. We will not agree to</p> <p>4 close the deposition, and I would like to order an</p> <p>5 expedited copy. If I can get it by Wednesday, I'd be</p> <p>6 grateful. And I will hold on ordering the DVD.</p> <p>7 MR. NEWMAN: And you know our position is that</p> <p>8 the deposition is complete and the witness should be</p> <p>9 excused. I expect you and I will have further</p> <p>10 communication on the subject.</p> <p>11 MR. BENNETT: By pleading we will. I believe</p> <p>12 the meet and confer is complete.</p> <p>13 THE REPORTER: Would you like to order a copy?</p> <p>14 MR. NEWMAN: Yes. Please. We're off the</p> <p>15 record.</p> <p>16 THE VIDEOGRAPHER: Okay. Then this concludes</p> <p>17 today's deposition. We're off the record at 2:35.</p> <p>18 (Whereupon proceedings concluded at 2:35 p.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 107</p> <p>1 THE WITNESS: I wouldn't characterize the</p> <p>2 VantageScore study as reaching the conclusions that you</p> <p>3 describe. The study simply says, as I state here, that</p> <p>4 removing public records, for some consumers, can render,</p> <p>5 for some consumer files, that file unscorable.</p> <p>6 BY MR. BENNETT:</p> <p>7 Q. Other than your reading of the documents that</p> <p>8 you cite in the footnotes to page 75, you do not have</p> <p>9 any actual knowledge or any -- certainly, any expert</p> <p>10 knowledge that it's better to have -- that -- that it's,</p> <p>11 at any time, better to have an inaccurately attributed</p> <p>12 judgment in your report than not having that in your</p> <p>13 report, right?</p> <p>14 MR. NEWMAN: Objection; incomplete hypothetical;</p> <p>15 mischaracterizes testimony.</p> <p>16 THE WITNESS: I'd like to hear the question</p> <p>17 again. Sorry. That was long.</p> <p>18 (Whereupon the previous question was read.)</p> <p>19 MR. NEWMAN: Same objections.</p> <p>20 THE WITNESS: I don't characterize anything as</p> <p>21 better in my report. The evidence --</p> <p>22 BY MR. BENNETT:</p> <p>23 Q. If you attribute --</p> <p>24 A. -- that I describe here is simply about the link</p> <p>25 between, as the study describes, removal of a public</p>	<p style="text-align: right;">Page 109</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2</p> <p>3</p> <p>4 I, NICOLE HATLER, a Shorthand Reporter, State of</p> <p>5 California, do hereby certify:</p> <p>6 That VICTOR STANGO, in the foregoing deposition</p> <p>7 named, was present and by me sworn as a witness in the</p> <p>8 above-entitled action at the time and place therein</p> <p>9 specified;</p> <p>10 That said deposition was taken before me at said</p> <p>11 time and place, and was taken down in shorthand by me, a</p> <p>12 Certified Shorthand Reporter of the State of California,</p> <p>13 and was thereafter transcribed into typewriting, and</p> <p>14 that the foregoing transcript constitutes a full, true</p> <p>15 and correct report of said deposition and of the</p> <p>16 proceedings that took place;</p> <p>17 That before completion of the proceedings,</p> <p>18 review of the transcript [] was [X] was not requested.</p> <p>19 IN WITNESS WHEREOF, I have hereunder subscribed</p> <p>20 my hand this 7th day of December 2016.</p> <p>21</p> <p>22 <u>Nicole Hatler</u></p> <p>23 NICOLE HATLER, CSR NO. 13730</p> <p>24 State of California</p> <p>25</p>

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